

Penfield Zoning Board of Appeals

September 16, 2021 Meeting Minutes

The Zoning Board Work session was held at 6:30 p.m. local time with the meeting immediately following on Thursday, September 16, 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 September 16, 2021

Motion made by:		To:	Second by:	Board Vote	Y	N
DeLaus	X	Approve	DeLaus	DeLaus	X	
Belgiorno			Belgiorno	Belgiorno	X	
Cinti			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 September 16, 2021 Zoning Board of Appeals public hearing, which is available at 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

Tabled Matters:

1. McMahan 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.

Board Comments/Questions:

Chairman DeLaus went over why it was tabled, to see if they would change the variance amount and to check with the Planning Boards for their opinion. The Planning Board was not supportive.

SEQRA Determination:

Motion Made by: Board Member Piston 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 Piston to Deny and Second by Board Member Belgiorno

Vote: All Ayes

1. Gerald Testa, 700 Berg Road, Ontario, NY, 14519 requests approval for a Conditional Use under Section 250-13.3 and Section 250-5.6-C (1) (e) of the Code to allow the operation of a construction business and residential use and Area Variances under Section 250-14.3 of the Code to allow an addition with less side and rear setback than required under Section 250-5.6-D (3) of the Code with less buffer than required under Section 250-7.2-A of the Code at 1343 Fairport Nine Mile Point Road. The property is currently or formerly owned by Gerald & Peggy Testa and is zoned LB. SBL #095.03-1-32.2. Application #21Z-0050.

Appearances by:

Gerald Testa, 700 Berg Road, Ontario, NY, 14519

Board / Presenter Comments / Questions / Statements:

Board Member Belgiorno started with Conditional Use, and asked how it would be used. He asked if Mr. Testa was going to continue use the property for business and residential and asked to describe the residential accommodations.

He asked for a description of how the business works, if he had employees, if customers come in and he would be making any sign changes or exterior lighting changes? He asked about trucks and equipment coming and going? Mr. Belgiorno asked what kind of storage he currently uses and how the size was determined for this application?

Presenter Comments / Questions / Statements:

Mr. Testa described the property as a double in the front residence which was always there and at one time the place was Caldwell & Cook Builders and then a saddle shop. Both of those areas are residential now and in the back is a garage where his shop is located. Currently items are being stored outdoors in the elements. He is a general contractor. Before he acquired this, he was in business with his brother in Gates, New York.

He has one secretary, a partner, and two (2) carpenters. He uses subcontractors. They do not work on residential, so there is no showroom, and no customers come to the business. Parking is not an issue between employees and tenants.

Mr. Testa said he is not making any sign or exterior light changes. They are done working by 4:00 pm. The equipment he has is Baker scaffolding, he doesn't own any site equipment.

He spoke to the neighbor next door to the North and the area of business is far from this resident's home. He put a fence up before Mr. Testa even bought the place. The neighbor is in support of the project.

Oak Construction bought the old Harris Seed property to his south.

The property only has a one car garage right now which he uses as an office. His guys are mostly carpenters, they do interior work with miter and table saws and these should not be left outside.

The expansion will be even with existing building, it will be the same color, and same vertical siding except metal. He wants the roof high enough to do the flashing correctly.

The benefit for expansion of pre-existing non-conforming is that all the things that are outside will go inside and the property will look much better.

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 the Conditional Use and Second by Board Member Silins

Vote: All Ayes

Motion made by: Board Member Belgiorno to Approve the Area Variance and Second by Board Member Cinti

Vote: All Ayes

2. Silvio Fantauzzo, 146 Tuscany Lane, Webster, NY, 14580 requests an Area Variance under Section 250-14.3 of the Code to allow a swimming pool with less setback than required under Section 250-5.1-F (1) of the Code at 146 Tuscany Lane. The property is currently or formerly owned by Silvestro N. Fantauzzo & Angela B. Pietropaolo and is zoned RR-1. SBL #094.02-2-52. Application #21Z-0051.

Appearances by:

Silvio Fantauzzo, 146 Tuscany Lane, Webster, NY, 14580

Board / Presenter Comments / Questions / Statements:

Board Member Silins asked what was different from his lot than the others in the neighborhood, and if it the pool could fit anywhere else. He also asked about buffering and drainage. Mr. Fantauzzo said he has a corner lot, so his side lot is considered his front and his set backs are considered different from 'normal'. He has an existing patio off the back of the house and due to the size and shape and how it fits on the lot the area chosen is the best place for it. There is buffering and a fence outside the area so you can't see the pool from the road. There is no problem for drainage and grading.

Outside Comments:

Chairman DeLaus stated there was one caller for this application. Mr. Jason Olbeck called in in support of the pool. He mentions the looks won't change from the road as there is a fence up already.

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 Piston
Vote: All Ayes

3. Kirk Wright /Sign & Lighting Services, PO Box 597, Ontario, NY, 14519 on behalf of Chipotle Mexican Grill requests approval for a Special Use Permit for signage under Section 250-10.3-A of the Code to allow three building-mounted signs whereas a maximum of one building-mounted sign is allowed under Section 250-10.13-C of the Code at 1838 Empire Boulevard. The property is currently or formerly owned by Lord Stanley NY, LLC and is zoned GB. SBL #093.15-1-58. Application #21Z-0053.

Appearances by:

Kirk Wright / Sign & Lighting Services, 530 Route 104, Ontario, NY, 14519

Dan Radman / Design Manager with Chipotle

Board / Presenter Comments / Questions / Statements:

Chairman DeLaus went over the request which is for three (3) building mounted signs and a free standing sign and Andy Suveges went over the application.

Chairman DeLaus spoke that the restaurant is in a unique area, as both sides of it are on two busy roads. He would like to know why the need for three (3) building mounted signs, as the previous M & T Bank had a free standing sign and two (2) building mounted signs.

Mr. Wright stated the property is unique with entrances from Empire Boulevard and Creek Street and those signs would be to attract drive through customers, the third sign would be facing the parking lot, which is the main entrance of the restaurant and wants the entrance identified. He states there are three building mounted signs at the Baytowne Liquor around the corner.

Chairman DeLaus thinks that people can see the free standing sign when they come in, and they do not need another sign, and asked if they can they put a Decal sign on the door windows.

Dan Radman, Design Manager with the store went over some reasons for the need of south elevation and stated that Chipotle can put a decal sign in the window. It's a by-product of the set-up of the building, that the patio is in front, the ADA is in front, the door is in front and they need the sign for informational and identification on this south side.

He said he could put a medallion sign in front on top of the door. Medallion signs are three (3) or (4) feet in diameter and are placed over the entrance door to locate the entry door.

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 one (1) additional sign and a motion to Table that portion of the application for the second sign and Second by Board Member Piston

Vote:

Chairman DeLaus: Aye

Board Members: Belgiorno, Silins, Piston, Cinti - Nay

Motion made by: Board Member Belgiorno for approval of one additional building mounted signs and not the second building mounted sign. Seconded by Board Member Silins

Chairman DeLaus clarified the vote for the applicant: Clarification is for approval of two building mounted signs and they can reapply for the third sign.

Vote:

Board Members Belgiorno, Silins, Cinti, Piston - Aye

Chairman DeLaus - Nay

There being no further business the Board adjourned this meeting 7:30 pm.
These minutes were adopted on October 21, 2021.