

Penfield Zoning Board of Appeals

June 17, 2021 Meeting Minutes

Due to the Covid-19 Virus and the closing of town operations consistent with Governors' Executive Orders, the June 17, 2021 Zoning Board of Appeals meeting was held remotely, beginning at 6:00 pm. In-person public access to the Town Hall facility was not permitted. This meeting was video recorded and broadcast LIVE via the town's website www.penfield.org, on the Town's Government Access Cable Channel 1303, and on streaming media device: ROKU, Apple TV, and Amazon Fire. Search "Penfield TV" in your device's app store, it is free. The meeting will be transcribed. Questions regarding video coverage please contact Penfield TV at (585) 340-8661.

The Zoning Board work session and meeting was held at 6:30 PM local time Thursday, June 17, 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 April 15, 2021:
Motion by Chairman DeLaus to Approve and Second by Board Member Silins
 Vote: All Ayes
- Regarding Minutes from Zoning Board Meeting on May 20, 2021:
Motion by Chairman DeLaus to Approve and Second by Board Member Silins
 Vote: All Ayes

III.

Motion made by:	To:	Second by:	↓	Board Vote	Y	N
DeLaus		DeLaus		DeLaus	X	
Belgiorno		Belgiorno	X	Belgiorno	X	
Cinti		Cinti		Cinti	X	
Piston		Piston		Piston	X	
Silins	X	Silins		Silins	X	

PUBLIC HEARING:

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Residents who wanted to address the board on any public hearing matter, had specific "public participation" opportunities for each matter listed below after the board responded to the applicant's presentation with its questions and concerns. They were able to participate by phone at (585) 340-8771, or by electronic submission at www.penfield.org. The Building and Zoning Department also accepted public comments on any of the matters via email prior to the meeting at building@penfield.org. All public comments sent via email were requested to include name and address for the record, and reference the application number.

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 June 17, 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.

WORKSESSION:

Chairman DeLaus stated the Board Members will lead our applicants through the process a bit but all applicants and call in or emailed public statements will be given as much time as needed. Secretary Kristine Shaw has written these meeting minutes accordingly with the knowledge that the public has access to watching the meeting via the Town of Penfield website at www.penfield.org to review as they like.

To save space in the minutes let it be known that Chairman DeLaus asks before and after each application being read that the public can call or email any comments into the board during this live broadcasted meeting. I only add this and any comments at the end of the application.

Public Hearing:

1. Darin Price, 25 Green Pine Lane, Webster, NY, 14580 requests an Area Variance under Section 250-14.3 of the Code to allow a taller fence than permitted under Section 250-7.1-D of the Code at 25 Green Pine Lane. The property is currently or formerly owned by Pauline Marsh & Darin Price and is zoned RR-1. SBL #094.01-1-38.23. Application #21Z-0031.

Appearance via Zoom:

Darin Price

Board / Presenter Comments / Statements / Questions:

Board Member Belgiorno spoke to Mr. Price stating his proposed fence extension is closer to the lot line than allowed which is because of the pool. He explained a four foot fence is needed to comply with having a pool; please tell us why you want it closer to the lot line than allowed and describe what the fence will look like.

Mr. Price says the area at the north west corner is forever wild and south is a pond which will be removed for the pool. They want more grass space for the kids. The fence is the typical black aluminum fence at four (4) feet tall and in six (6) foot sections. It is an open fence.

Andy Suveges spoke regarding measurements. Andy did a field measurement and based on the site survey, the fence is going to be twenty (20) feet back from the edge of the road gutter and ten (10) feet from rear property line.

Public Calls or Email Comments:

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**

Motion Vote: All Ayes

2. Jon & Beth Russell, 135 Tuscany Lane, Webster, NY, 14580 request an Area Variance under Section 14.3 of the Code to allow a swimming pool with less setback than required under Section 250-5.1-F (13) of the Code at 135 Tuscany Lane. The property is currently or formerly owned by Jon & Elizabeth Russell and is zoned RR-1. SBL #094.02-2-28. Application #21Z-0033.

Appearance via Zoom:

Jon & Beth Russell

Board / Presenter Comments / Statements / Questions:

Board Member Piston asked why the pool couldn't be smaller as it would then meet the required setbacks for the sides. They are looking for a variance of six feet for the pool and four feet for the cement walk from the property line.

Mr. Russell – He chose the pool location because of safety concerns. When they moved in to the house there was a deck from the breakfast nook that extends into the yard, they want to get the pool away from the deck so kids would not jump into the pool from the already built deck. Pool is sixteen (16) feet – a standard size pool. He would probably still need a variance for a fourteen (14) foot pool. The deck would be expensive to take apart.

Public Calls or Email Comments:

The board addressed a prior email comment from a citizen. The concern was that they would take out trees in the 'forever wild' area behind them. Mr. Russell assured the board he would not be taking any trees down behind him as that land is owned by the county.

Jason Welbeck – 19 Tuscany Ln on phone - He is in favor of the project.

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 **Approve** and **Second** by Board Member **Belgiorno**

Motion Vote: All Ayes

3. Brian Nizinsky, 29 Hilltop Drive, Penfield, NY, 14526 requests an Area Variance under Section 14.3 of the Code to allow an enclosed porch with less setback than required under Section 250-5.1-F (1) of the Code at 29 Hilltop Drive. The property is currently or formerly owned by Brian Nizinsky & Melissa Pletscher-Nizinsky and is zoned R-1-15. SBL #139.11-3-3. Application #21Z-0034.

Appearance via Zoom:

Brian & Melissa Nizinsky

John Bush/Go2 Construction - Contractor

Board / Presenter Comments / Statements /Questions:

Board Member Silins: The application is for a ten by twenty four (10 x 24) foot front covered porch and steps to the home. The steps encroach the setback already but this is the main entrance to the house. Your neighbors' house is already closer to the road so if approved your house is no different than others in the neighborhood and you will match trim, paint colors. Any reason why this cannot be placed in the back of the house? We have two letters from neighbors that approve of this project.

Mr. Nizinsky concurred with Board Member Silins summary in all aspects and added that the siding and roof will match because they are replacing the roof on the house and will match completely. It can't be located in backside because they have maxed out the use in the rear and the back already has a build out and the kids would lose yard space.

Public Calls or Email Comments:

There were none.

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 **Belgiorno**

Motion Vote: All Ayes

4. Jeffrey Lancy c/o American Promotional Events, 4003 Helton Drive, Florence, AL, 35630 requests a recommendation of approval for the issuance of an Itinerant Vendor License under Section 162-6-E (1) (b) and Section 162-E (2) of the Code to allow the sales of sparkling devices at 1601 Penfield Road. The property is owned by Penfield TK Owner, LLC and is zoned GB. SBL #138.08-1-2./PLZA. Application #21Z-0035.

Appearance via Zoom:

Amanda Gump – American Promotional Events

Board / Presenter Comments / Statements /Questions:

Board Member Cinti stated they are applying for Itinerant Vendor license and stated they would be conforming to all regulations. The tent sales will be in a different area. Questions asked were, how trash will be handled, and if there would be any music. She reiterated the safety guidelines and need for fire extinguishers. The sign package is to be the same as previous years.

Ms. Gump: Someone will be there at all times when there is product in the tent. At night they have a metal storage container that will be filled and locked. The operator will have trash cans and keep the area neat. No music. She agreed to sign placement being the same as last year.

Public Calls or Email Comments:

There were none.

SEQRA Determination:

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

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 Cinti to **Approve** and **Second** by Board Member **Silins**

Vote: All Ayes

There being no further business the Board adjourned this meeting at 7:15 p.m.

These minutes were adopted on July 15, 2021.