

# Penfield Zoning Board of Appeals

## August 18, 2022 Meeting Minutes

The Zoning Board Work session was held at 6:00 p.m. local time with the meeting immediately following on Thursday, August 18, 2022, 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	
Laura Eichenseer		X
George Flansburg	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	
John Mancuso, Legal Counsel		X

II. Regarding Minutes from Zoning Board Meeting on July 21, 2022

Motion made by:		To:	Second by:		Board Vote	Y	N
DeLaus			DeLaus		DeLaus	X	
Eichenseer			Eichenseer		Eichenseer	n/a	
Flansburg			Flansburg		Flansburg	X	
Piston	X	Approve	Piston		Piston	X	
Silins			Silins	X	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 August 18, 2022 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 each of the applications that the public may write or call in with their comments. I will enter when there are some and note the comments. Where you see (ZOOM) next to name in 'Appearances by' – this means the attendance was via computer conferencing. K. Shaw-Secretary

Tabled Matters:

1. Nixon Peabody LLP, 1300 Clinton Square, Rochester, NY, 14604, on behalf of Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless requests approval for a Use Variance under Section 250-14.3 of the Code to allow the construction and operation of a tower-based wireless communications facility (TBWCF) whereas Section 250-13.11-B (4) (i) of the Code prohibits TBWCFs within the Four Corners zoning district and an Area Variance under Section 250-14.3 of the Code to allow a TBWCF with less setback than required under Section 250-13.11-B (7) (e) (1) of the Code at 1838 Penfield Road. The property is currently or formerly owned by Penfield Fire District and is zoned FC. SBL #139.06-2-49.1. Application #22Z-0019.

CONTINUED TABLED

**SEQRA Determination: not voted on previously**

**Application Vote:**

Motion made by Board Members Silins motion to extend shot clock to September 23, 2022 and Second by Board Member Flansburg

Vote: All Ayes

Motion made by Chairman DeLaus to Continue Table and Second by Board Member Piston

Vote: All Ayes

2. Christopher Keipper/Rochester Gas & Electric, 3 City Center, 180 South Clinton Avenue, Rochester, NY, 14604 requests approval for Area Variances under Section 250-14.3 of the Code to allow the construction of an electrical substation with greater lot coverage than allowed under Section 250-5.6-D (2) of the Code, less setbacks than required under Section 250-5.6-D (3) of the Code, taller fencing than allowed under Section 250-7.1-D of the Code, and less buffer than required under Section 250-7.2-A of the Code at 2070 Empire Boulevard. The property is currently or formerly owned by JJ & A Development, LLC and is zoned LB. SBL #093.02-1-1.121. Application #22Z-0041.

CONTINUE TABLED

**SEQRA Determination:**     **not voted on**

**Application Vote:**

Motion made by Chairman DeLaus to Continue Table and Second by Board Member Silins

Vote: All Ayes

Public Hearing Applications

1. Robert Bartz, 6 Hilltop Drive, Penfield, NY, 14526 requests approval for an Area Variance under Section 250-14.3 of the Code to allow a shed with less setback than required under Section 250-5.1-F (12) (b) of the Code at 6 Hilltop Drive. The property is currently or formerly owned by Robert John Bartz and is zoned R-1-15. SBL #139.07-3-72. Application #22Z-0043.

Appearances by:

Robert Bartz

Board / Presenter Comments / Questions / Statements:

Board Member Piston went over the variance request which is to have a shed with less setback than required by two (2) feet.

He has already removed one shed and Mr. Bartz will use it for storage for furniture, lawn mower snow blower. Mr. Bartz has a 1/3 acre lot which is on a hill and there is an easement which he has already signed a Hold Harmless agreement for, and these are the reasons for the two feet variance.

There will be a four by four (4x4) crushed stone base, vinyl shed, and will match the house color. There will be no electricity or plumbing.

He has spoken to neighbors and submitted a letter of support from them.

**SEQRA Determination:**

Motion Made by: Board Member Piston 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 Piston to Approve with conditions and Second by Board Member Flansburg

Vote: All Ayes

2. Kathleen & Ronald Roncinske, 2196 Carter Road, Fairport, NY, 14450 request approval for an Area Variance under Section 250-14.3 of the Code to allow a front porch with less setback then required under Section 250-5.1-F (1) of the Code at 2196 Carter Road. The property is currently or formerly owned by Ronald & Kathleen Roncinske and is zoned RR-1. SBL #141.01-1-45. Application #22Z-0044.

Appearances by:

Kathleen Roncinske

Board / Presenter Comments / Questions / Statements:

Board Member Silins stated they are looking to rebuild a front porch and make it larger; currently it is in disrepair. They are upgrading the stoop and shifting it over.

Anything they do beyond eight and a half (8 ½) inches of the house requires a variance. Other homes in the neighborhood have front porches so it is not out of character.

The construction will be made of composite wood with a little roof on over it. The lighting will still be attached to the house.

**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 Flansburg

Vote: All Ayes

3. Timothy W. Dieter, 12 Stone Hollow Drive, Penfield, NY, 14526 requests approval for an Area Variance under Section 250-14.3 of the Code to allow a shed with less setback than required under Section 250-5.1-F (12) (b) of the Code at 12 Stone Hollow Drive. The property is currently or formerly owned by Timothy & Susan Dieter and is zoned R-1-20. SBL #094.18-1-33.1. Application #22Z-0045.

To be heard in September

4. David R. Everett/Whiteman, Osterman & Hanna, LLP, 1 Commerce Plaza, Albany, NY, 12260 on behalf of Chick-Fil-A requests approval for Area Variances under Section 250-14.3 of the Code to allow a building canopy with less setback than required under Section 250- 5.7-D (3) of the Code and approval for a Special Use Permit for Signage under Section 250-10.3-A of the Code to allow four building signs whereas a maximum of one building sign is permitted under Section 250-10.13-C of the Code, greater total building sign area than permitted under Section 250-10.13-B of the Code, and signage with greater graphics, trademarks or logos than permitted under Section 250-10.11-E of the Code at 2130 Fairport Nine Mile Point Road. The property is currently or formerly owned by Kerry Ventures Fairport Nine Mile Point Road LLC and is zoned GB. SBL #140.01-2-4.1/PERK. Application #22Z-0046.

Appearances by:

Randy Bebout - Bohler Engineering

Paul VanCott - Whiteman, Osterman & Hanna – Agent for David Everett –

Clint Mattson - Chick-Fil-A - Applicant

Board / Presenter Comments / Questions / Statements:

Randy Bebout gave an overview of the project for Chic Fil A.

The site has five point three one (5.31) acres and the previous building and site features have been removed. There is a gravel access road which will be resurfaced.

They will have access from Route 441 from the north and Route 250 from the west. This is a shared access drive for multiple tenants.

Chic Fil A is proposing a fifty-six hundred (5600) square foot restaurant.

Mr. Bebout described the layout of the property with the drive through. The drive thru lane will be in front wrapping around north of building with a meal ordering canopy, this is where the menu boards will be. There will be three (3) lanes for drive through ordering.

They will have an outdoor seating area on the East side, which is the front of building. The parking lot and patio area are in the front of the building.

The Dumpster location is to the north of building accessed by the service road. They have stacking for fifty (50) vehicles which can handle peak hours for drive through traffic.

Everything will be brand new, sewers, pavement, lighting. It is a permitted use permit in the LB (Limited business) district

This will create up to eighty (80) construction jobs for several weeks. They will have one hundred plus (100 +) team members with up to fifteen (15) employees at a time, turned over three (3) times a day. Typical hours for the restaurant are 6:30 am to 10:00 pm Monday through Saturday.

They are not open on Sundays.

They will be back on the Planning Board agenda in September after having addressed some issues. One being to come to the Zoning Board for approval.

Clint spoke to the requested variances. They are looking for an Ordering canopy, and the need of a side and front variance. It will be three lanes for safe and efficient traffic circulation, it minimizes stacking.

It is critical to be where it is. If they moved the canopy back, they would have to move the building back.

Chairman DeLaus asked about turning the building around and Mr. Bebout said they studied the site extensively and found this would be the most efficient layout.

Chairman DeLaus asked about signage portion of the variance.



They want four building signs as follows:

2130 Rt 250 – Chick Fil A – Canopy on the north side of the building requires a side setback variance of 11.7’ resulting in a setback of 8.3’ from the north property line and a front setback variance of 8.3’ resulting in a setback of 71.7’ from the front (west) property line.

Signage approvals required:

- Proposing (4) building signs whereas a maximum of (1) is allowed.
- 100% logo area for building sign on south elevation whereas a maximum of 50% logo area is allowed for each sign by Code.
- Building frontage (east elevation) is 83’-3-1/2”. Code allows a single building-mounted sign with an area of 166.58 sq. ft. (2 sq. ft. x 83’-3-1/2”). Combined area of proposed building signs is 211.55 sq. ft., which is 44.97 sq. ft. larger than that which would be allowed by Code for a single sign.

They discussed the site and its unique characteristics with a shared access road being the ‘entrance’ to the site, they will not be on any pylon signs, and spoke of the size of the signs and the front versus the back of the restaurant and where people are pulling in.

Mr. Suveges Penfield Building Inspector) spoke to the Code regarding directional signs and the signs are only to show enter / exit.

Chairman DeLaus asked Peter Weishaar if we can modify the application so a decision could be made.

Tim Freitag explained how those signs would look.

Town Counsel Mr. Weishaar says there is an allowance and that we can modify it.

Discussion of the new percentages.

**SEQRA Determination:**

Motion Made by: Chairman DeLaus 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 Chairman DeLaus to approve three building signs, west, south, and east and logos at one hundred (100) percent will be allowed and four (4) way finding signs enter / exits and Second by Board Member Silins

Vote: All Ayes

Chairman Delaus Amended his Motion to include and approve the canopy and seconded by Board Member Silins

Vote: All Ayes

5. David A. Waldarek, 1049 Gravel Road, Webster, NY, 14580 on behalf of Eric & Julia Henrichs requests approval for an Area Variance under Section 250-14.3 of the Code to allow a front porch with less setback then required under Section 250-5.1-F (1) of the Code at 281 Valley Green Drive. The property is currently or formerly owned by Eric & Julia Henrichs and is zoned R-1-20. SBL #124.16-1-51. Application #22Z-0047.

Appearances by:  
Julia Henrichs

Board / Presenter Comments / Questions / Statements:

Board Member Silins - The applicant is here for a front porch variance, which will extend out, and have step in front. They need about three and one half (3 ½) feet variance.

Julia Henrichs stated the reason for the bigger size is because right now they have a front stoop with no room other than to open and close door. They would like to put a chair out there. Other houses in the neighborhood have small stoops and all of them are not deep enough to put a chair out and maximize the use of the front porch. The depth would also help keep the snow from blowing into the front door. The neighbors input has included how they now want front porches too. She thinks it is consistent with how the neighborhood looks and is a desirable change. There will be no environmental impacts and she would need a variance no matter what changes they would make.

**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 Piston

Vote: All Ayes

There being no further business the Board adjourned this meeting 7:10 pm