

Penfield Zoning Board of Appeals

July 21, 2022 Meeting Minutes

The Zoning Board Work session was held at 6:00 p.m. local time with the meeting immediately following on Thursday, July 21, 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 June 16, 2022

Motion made by:		To:	Second by:		Board Vote	Y	N
DeLaus			DeLaus		DeLaus	X	
Eichenseer			Eichenseer		Eichenseer	X	
Flansburg			Flansburg	X	Flansburg	X	
Piston			Piston		Piston	n/a	
Silins	X	Approve	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 July 21, 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.

* 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

Appearances by:

John Mancuso - Counsel

Board / Presenter Comments / Questions / Statements:

Needs to extend to September 9, 2022.

SEQRA Determination: not voted on previously

Motion Made by: Chairman DeLaus and Second by Board Member

___ 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:

Application Vote:

Motion made by Chairman DeLaus to Table & to agree to extension of shot clock of September 9, 2022, and Second by Board Member Board Member Silins

Vote: All Ayes

Public Hearing Applications

1. 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.

Appearances by:

Mary Steblein - Labella Associates – Agent – 300 State Street, Rochester NY 14614

Eric Thorne - RGE – 3 City Center, 180 S. Clinton Avenue, Rochester, NY 14604

Board / Presenter Comments / Questions / Statements:

Board Member Flansburg reiterated the application in that they are relocating the current gas and electric infrastructure from its current site to the new site to facilitate expansion and growth. The understanding is that RGE would not be able to collectively at the same time expand and keep the service running in its current site. Board member Flansburg had a couple questions regarding the structure and the fence. The building they are proposing is for housing the gas and electrical sections?

Ms. Steblein clarified there is no gas relocation, but it is gas insulated switch gear for the electrical equipment.

Board Member Flansburg asked about the structure being built to blend in with the area.

Mr. Thorne said they designed the footprint of the area to make the least amount of footprint possible to enclose most of the infrastructure, they are moving it from a completely outdoor structure to enclose as much as possible indoors. They must meet code and energy standards, and some require certain material to be used. It is the smallest footprint possible to house the material inside. In response to comments from the Town staff regarding the community impact they and went above their standards and allowed a more decorative black fence instead of regular chain link and they are also using vegetation for buffering. They feel the building does fit in with the Limited Business district.

Board Member Flansburg mentioned that right across the street is residential and wondered if they could completely block the view of the substation.

Mr. Thorne said the substation must keep security in mind. They need to maintain a perpetual line of sight. From a security standpoint they cannot have it completely blocked off also they are not willing to have it completely open. They will still plant some arborvitae spaced accordingly so to help.

Board Member Flansburg asked if they have reevaluated the existing site, so they don't have to ask for so many exceptions and adjustments.

Mr. Thorne explained when they design the projects, they always look to use the existing station footprint, and in this case, to upgrade and meet growing demands, they need to incorporate two (2) transformers. The existing site cannot support the transformers because they need to maintain a certain spacing for energy codes, and there are underground considerations. Even if they could

upgrade the existing site they would have to take the substation completely off-line, which would impact residents.

Mr. Thorne explained the property behind them is developed to be an Urgent Care and they must keep in mind the setbacks & energy codes from all sides. What they have come up with is what they are able to do. They also try to space things out on outskirts of property to keep away from the visual impact from the roadway. Based on feedback from the Planning Board the new transformers will be enclosed in a concrete block and a visual barrier so as not to be seen by the roadway.

Mr. Thorne says they looked at other properties and they always want to use existing property first; if unable, they want to use an area nearby due to the impact of overhead and underground connections. This parcel was found to have pieces usable to them and was closest to the current station and will have less impact with nearby property owners and easements. There are other variables if they moved completely other than the high cost.

Chairman DeLaus asked if they could provide a document on the findings of their assessment and review of other sites. Eric will look into this to see what he can share as it is a process done internally with other departments.

Chairman DeLaus asked why they must move now and what would be on proposed site in the future that is not on current site.

Mr. Thorne explained the Penfield infrastructure is growing and developing which will create a high demand. To meet these demands, they make assessments on future growth and what the stations can provide. So, long term decisions are made to keep on top of the growth. The current site is completely outdoors and has old technology. It has a sixties "60's" design. They look for improvements in reliability and resiliency and they will be installing new modern equipment on the new parcel. The new infrastructure will be completely enclosed in the building and the parcel requires a second transformer. There are underground connections to be considered that the old site just cannot accommodate.

Board Member Eichenseer, asked what will happen to old site and why couldn't they use both sites together.

Ms. Steblein and Mr. Thorne explained the existing substation would be decommissioned and the transformer would be sent to another location to be reused. Other equipment will be recycled. There are no plans yet for the existing lot other than to keep it online & working until the other is completed. They explained when new substations are developed, they are modernized where there are things can be done off site via computer. It wouldn't be effective to use both sites old and new because they would have to go out to one to physically do the work or changes required and the other could just be worked on 'in house' via computer.

Board Member Silins asked about a report explaining criteria for design requirements and why they are limited to specific sizes, and placements, etc. Mr. Thorne said they are putting a report together for the Planning Board and will share it with the Zoning Board.

Chairman DeLaus asked about noise generated by the transformer.

Ms. Steblein said they are low noise transformers, and they will have walls surround the transformers to absorb sound.

Neighbor and Board Comments / Questions / Statements:

Jim & Christy Vitale - 81 Seabury Boulevard – Mr. Vitale voiced his opinions on the adverse effects of the residential neighborhood including the look, his taxes-property value, wildlife, lighting, and the buffering intended to block the site and that children like to play there. Mr. and Mrs. Vitale asked if the construction would include cutting up Empire Boulevard to get underneath for work needing to be done. They also asked why they could not use another location down the street.

The Board members commented to him by stating that first, it is private property, and the applicant could do what they like if they were following code, it just happens they need a variance for what they want at this time. Chairman DeLaus also asked if Mr. Vitale had some records regarding home values going up or down. The Board and applicant addressed the lighting issues & will provide information at the next meeting and reiterated the lights are there for security. Mr. Thorne said Empire Boulevard would not be cut up and he spoke to the impact of moving it down the street. Chairman DeLaus asked if RG&E as a public utility has eminent domain? Is RG&E entitled to reduced variances by law?

SEQRA Determination: not voted

Motion Made by: Board Member Flansburg and Second by Board Member

___ 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: n/a

Application Vote:

Motion made by Board Member Flansburg to Table and Second by Chairman DeLaus

Vote: All Ayes

2. Gregory McMahon/McMahon LaRue Associates, P.C. on behalf of Salvatore Fantauzzo, 1651 Empire Boulevard, Webster, NY, 14580 requests approval for a Conditional Use under Section 250-13.3 and Section 250-5.6-C (1) (c) of the Code to allow a single-family detached residence at 1651 Empire Boulevard. The property is currently or formerly owned by Fantauzzo Family Brands, Inc. and is zoned LB. SBL #093.19-1-22. Application #22Z-0042.

Appearances by:

Gregory McMahon - McMahon-LaRue Associates – 822 Holt Rd, Webster, NY 14580

Board / Presenter Comments / Questions / Statements:

Requesting a special use permit for an apartment over a garage. The site is owned by Fantauzzo Family Brand. The current has one house currently has an acupuncture office in it and one apartment. They received site plan approval previously to construct a garage as shown on the plan. At that time there were no plans for the apartment over the garage. Currently, Mr. Fantauzzo is asking for this. They have enough parking to accommodate the office and the two apartments. Nine parking spaces are required, they have twelve on site.

Board Member Silins asked how the garage space be allocated. Mr. McMahon said it will be one space for each apartment and one space for the office.

They do not anticipate any impact to traffic on Empire Boulevard as it is heavily traveled and the addition of one apartment is not going to make an impact.

The board asked about buffering and lighting. Mr. McMahon said buffering was not required on the site plan approval. The only lighting will be at the door and directed to the parcel. No parking lot lighting has been proposed.

Neighbor Comments / Questions / Statements:

Kelly Vogt - 4 Rossman Drive – Penfield, NY 14526

Ms. Vogt wanted clarification if the building was an additional structure or a taller structure. The Board explained the structure.

SEQRA Determination:

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

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 Approved and Second by Chairman DeLaus

Vote: All Ayes

There being no further business the Board adjourned this meeting 7:07 pm