

# Penfield Zoning Board of Appeals

## June 16, 2022 Meeting Minutes

The Zoning Board Work session was held at 6:00 p.m. local time with the meeting immediately following on Thursday, June 16, 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 May 19, 2022

| Motion made by: |   | To:      | Second by: |   | Board Vote | Y | N |
|-----------------|---|----------|------------|---|------------|---|---|
| DeLaus          |   |          | DeLaus     |   | DeLaus     | X |   |
| Eichenseer      |   |          | Eichenseer |   | Eichenseer | X |   |
| Flansburg       |   |          | Flansburg  |   | Flansburg  | X |   |
| Piston          |   |          | Piston     | X | Piston     | X |   |
| Silins          | X | Approved | 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 June 16, 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.

Appearances by:

Jared Lusk/Nixon Peabody LLP Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless  
William Johnson/Cell Tower Consultant  
Steve Ciccarelli/Independent RF Engineering Consultant

Board / Presenter Comments / Questions / Statements:

Chairman DeLaus said we will table this application because today we received a Consultant Report, as requested, to review the changes.

There was discussion regarding having a special meeting after review.

**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 and Second by Board Member Piston

Vote: All Ayes

John Mancuso noted that Planning Board adopted a resolution to extend the shot clock to August 12, 2022.

Motion made by Chairman DeLaus to Table along with the August 12, deadline, and Second by Board Member Piston

Vote: All Ayes

Tabled Matters continued:

2. Marathon Engineering, 39 Cascade Drive, Rochester, NY, 14614, on behalf of Heritage Christian Services, requests approval for an Area Variance under Section 250-14.3 of the Code to allow an existing detached garage with less setback than required under Section 250-5.1-F (1) of the Code at 2730 Atlantic Avenue. The property is currently or formerly owned by Heritage Christian Services and is zoned R-1-20. SBL #124.01-1-2. Application #22Z-0034.

Appearances by:

Dan Stewart/Heritage Christian Services

Board / Presenter Comments / Questions / Statements:

This application was tabled previously to clarify some items, and this has been done, and in the interim the Planning Board has approved the application.

**SEQRA Determination:**

Motion Made by: Board Member Eichenseer 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 Eichenseer to Approve and Second by Board Member Flansburg

Vote: All Ayes

Public Hearing Applications

1. Joseph Scofero, 1402 Salt Road, Webster, NY, 14580, requests approval for an Area Variance 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 at 1402 Salt Road. The property is currently or formerly owned by Joseph & Kimberly Scofero and is zoned RA-2. SBL #096.03-1-69.21. Application #22Z-0017.

Appearances by:  
Joseph Scofero

Board / Presenter Comments / Questions / Statements:

Board Member Flansburg went over the application: Mr. Scofero would like to add a second building slightly larger than code allows. He asked how the building will be used and if he could get away with making it smaller.

Mr. Scofero said he will be using the building for storage. They had a large barn, but the property was sold last year, and they must move the items from the old barn to the new one. He has classic cars, a ski boat, tractors, and ATV's. He measured out everything onto the field and this was the measurement they came up with to fit all his items.

Board Member Flansburg asked if there are other properties in the area with more than one building for storage? Mr. Scofero said yes; there are others in the neighborhood.

Mr. Scofero owns the surrounding properties. He has two neighbors on either side, 1326 and 1404 they didn't receive a postcard, but they both approve of the project. Mr. Scofero had this barn approved at 1623 Plank Road over a year ago but it was retracted due to his mother subdividing the property.

Board Member Silins asked why he couldn't expand the other building instead of making two (2) buildings, and Mr. Scofero answered if he expanded he would still need a variance for the set back; also, they didn't want to block view with an extension to the other building.

**SEQRA Determination:**

Motion Made by: Board Member Flansburg 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 Flansburg to Approve and Second by Board Member Eichenseer

Vote: All Ayes

2. Keystone Novelties Distributors, LLC, 531 North 4<sup>th</sup> Street, Denver, PA, 17517 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 currently or formerly owned by Penfield TK Owner, LLC and is zoned GB. SBL #138.08-1-2./PLZA. Application #22Z-0029.

Appearances by:

Rick Siri/ Keystone Novelties – (Zoom)

Board / Presenter Comments / Questions / Statements:

Board Member Eichenseer reiterated the application and noted he has all the appropriate and supplemental paperwork.

Mr. Siri mentioned they were at the same location in 2020 and would like to come back.

He plans to be set up on June 21-22, 2022, through July 5, 2022. The operating hours will be 9:00 a.m. to 9:00 p.m.

The site will be cleaned, swept up, trash taken out to after July 5th.

Board Member Eichenseer asked about licenses obtained and Mr. Siri said they have the state sparkler license per New York State and will follow State Fire Marshal ordinances.

They will sell handheld sparkling devices, fireworks, but classified as ground-based fountains, nothing that explodes or shoots into the air. They have a flame retardant tent, and other safety measures are in place.

They will be renting their tent from the Flower tent that applied to be in the same location here a few weeks prior.

They have lighting around the tents and some inside the tent. They will not have any external lights shining out to distract anyone. They may have string lights inside the tent for when dusk comes. They will put signage up as directed. They have not heard of any complaints from businesses or patrons.

**SEQRA Determination:**

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

Vote: All Ayes

3. Roger DeLong, 1720 Creek Street, Rochester, NY, 14625, requests approval for Area Variances 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 with less setback than required under Section 250-5.1-F (12) (b) of the Code at 1720 Creek Street. The property is currently or formerly owned by Roger & Leonora DeLong and is zoned R-1-20. SBL #123.07-2-1.1. Application #22Z-0036.

Appearances by:  
Roger DeLong

Board / Presenter Comments / Questions / Statements:

Board Member Silins stated this application was already approved and then built and at the final inspection the Towns building inspector stated there was a problem.

The structure plans are for a sixteen by twenty (16 x 20), three hundred twenty (320) square foot shed but the Town of Penfield depicted it was four hundred eighty (480) square feet because of the side areas (has overhang). Board Member Silins asked if the plans submitted to the Zoning Board were the same as was submitted with his original building permit. Mr. DeLong said, 'yes'. Mr. Silins asked this because the plans are very well done, and you can tell how it will be put up. So, with this and the depiction of the size with the overhang, it must be further away from the lot lines because of the size of the shed with the size of the property. He would need a fifty (50) foot setback, but Mr. DeLong said his lot size is only ninety (90) feet wide.

Mr. DeLong showed photos of the shed from his neighbor houses. It would not change the character of neighborhood. There have not been any problems or concerns from neighbors regarding the size. It was an oversight by Town staff.

Mr. DeLong explained he read over the rules for Accessory structures, but he didn't see any rules about an extended roof that would change the way his application reviewed.

Neighbor Comments / Statements:

Sue Monczyk - 27 Bunker Hill Drive - Her property backs up to his property. She can see nine (9) sheds around the area, some are falling apart but his is beautiful. She is in support of his shed.

Karen Ryan - 1724 Creek Street - Her shed is one that needs replacement. His shed is fabulous; it doesn't affect wild life and she is in favor of his project.

**SEQRA Determination:**

Motion Made by: Board Member Silins 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 Silins to Approve and Second by Chairman DeLaur

Vote: All Ayes

4. Andrew Holtz, 211 Harwood Circle, Rochester, NY, 14625, requests approval for an Area Variance under Section 250-14.3 of the Code to allow a deck/ pergola with less front setback than required under Section 250-5.1-F (1) of the Code at 211 Harwood Circle. The property is currently or formerly owned by Andrew & Alicia Holtz and is zoned R-1-20. SBL #123.08-2-87. Application #22Z-0038.

Appearances by:

Andrew and Alicia Holtz

Board / Presenter Comments / Questions / Statements:

Board Member Flansburg – They are adding a porch to front of home.

They will use the porch to watch their children as they play in the front. They are not putting any lighting that would face the road and the porch is not out of character in the neighborhood. The house itself is at the fifty (50) foot setback so anything they put out front would need a variance.

Mr. and Mrs. Holtz intend to have it match the wood trim on the shutters and there is no opposition from any neighbors.

Neighbor Comments:

Chairman DeLaus mentioned the Town received support emails on this project.

**SEQRA Determination:**

Motion Made by: Board Member Flansburg 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 Flansburg to Approve and Second by Board Member Eichenseer

Vote: All Ayes



5. William & Pamela Ehring, 1961 Harris Road, Penfield, NY, 14526, request approval for an Area Variance under Section 250-14.3 of the Code to allow an accessory storage building with less setback than required under Section 250-5.1-F (12) (b) of the Code at 1961 Harris Road. The property is currently or formerly owned by William & Pamela Ehring and is zoned RA-2. SBL #125.04-1-2.131. Application #22Z-0039.

Appearances by:

William and Pamela Ehring

Board / Presenter Comments / Questions / Statements:

Board Member Piston - They have six point seventy-eight (6.78) acres to put the storage building up and asked why they could not find a different location where they would not need a variance. Mr. Ehring said the problem is they have a drainage swale right in the middle. They would have to locate it way in the back to get the distance required with out a variance. The area also floods every spring and fall.

They are using it for storage for equipment to maintain the property. The materials for the standard pole barn will be a metal roof, metal siding, and have a couple garage doors. They are going to run electricity to it. No plumbing will be included. They have one building up that they will be taking down. There are many other pole barns in the neighborhood.

Neighbor Comments:

Board Member Piston said we received support emails on this 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 Flansburg

Vote: All Ayes

6. David Milliken, 61 Twilight Drive, Rochester, NY, 14617, requests approval for an Area Variance under Section 250-14.3 of the Code to allow a deck/porch with less front setback than required under Section 250-5.1-F (1) of the Code at 63 Beacon Hills Drive North. The property is currently or formerly owned by Christine M. Kuhn and David S. Milliken and is zoned PD. SBL #109.05-2-19. Application #22Z-0040.

Appearances by:

David Milliken

Board / Presenter Comments / Questions / Statements:

Board Member Silins first off had a question for ZBA Town representative, Andy Suveges in that no matter what is built on the front of the house it would need a variance. The answer is yes because the house itself is already at the setback line.

Currently there is a makeshift four (4) foot deck at the front. The original porch was a five by eight foot (5'x8') concrete slab which deteriorated.

Mr. Milliken needs a new space and would like room for chair placement and when you open the door you won't have to step off the step when the door is open. He modeled it by the neighbor across the streets' porch which makes it in character with the neighborhood as well.

He has submitted a building application.

Neighbor Comments:

Adele Shepherd – 15 Braintree Crescent – She spoke in support of this project and is glad to see it rebuilt.

**SEQRA Determination:**

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

Vote: All Ayes

There being no further business the Board adjourned this meeting 7:45 pm