

Penfield Zoning Board of Appeals

March 17, 2022 Meeting Minutes

The Zoning Board Work session was held at 6:30 p.m. local time with the meeting immediately following on Thursday, March 17, 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	

II. Regarding Minutes from Zoning Board Meeting on February 17, 2022

Motion made by:		To:	Second by:	Board Vote	Y	N
DeLaus			DeLaus	DeLaus	X	
Eichenseer			Eichenseer	Eichenseer	X	
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 March 17, 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 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 Item # 1:

1. Amy Catalano/Vital Signs, 764 Ridge Road, Webster, NY, 14580 on behalf of Genesee Valley Physical Therapy requests approval for a Special Use Permit for signage under Section 250-10.3-A of the Code to allow a second building-mounted sign whereas a maximum of one building-mounted sign is permitted under Section 250-10.13-C of the Code at 2200 Penfield Road. The property is currently or formerly owned by Penn Fair Plaza, LLC and is zoned GB. SBL #140.01-1-3.1. Application #21Z-0057.

Chairman DeLaus discussed that this application has been pending for some months and we have been waiting for further information from the applicant.

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 Deny without Prejudice and Second by Board Member Silins

Vote: All Ayes

Motion re voted due to including the SEQR Determination

Had to re do the Motion:

Motion made by Chairman DeLaus to Deny without Prejudice and second by Board Member Piston

Tabled Item # 2:

2. David Garritano, 3825 Atlantic Avenue, Fairport, NY, 14450 requests an Area Variance under Section 250-14.3 of the Code to allow a larger detached garage than permitted under Section 250-2.2 of the Code at 3825 Atlantic Avenue. The property is currently or formerly owned by David Garritano and is zoned RA-2. SBL #111.03-1-16. Application #22Z-0005.

WITHDRAWN

Work session – There was discussion regarding an application heard at the January 20, 2022 meeting for 68 Ashlyn Drive. We received an anonymous letter. As the hearing has been closed and the information in the letter did not pertain exactly to the application there was no action for the Board to take.

1. Kimberly Krisher/Abundant Flowers, Inc. 295 Lake Road, Ontario, NY, 14519 requests a recommendation of approval for the issuance of an Itinerant Vendor License under Section 162-6-E (1) (b) and Section 162-6-E (2) of the Code to allow the sales of potted flowers, vegetables, and herbs 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-0013.

Appearances by:

Kimberly Krisher

Board / Presenter Comments / Questions / Statements:

Board Member Flansburg summarized they are looking for a thirty by sixty (30x60) foot tent in the Panorama Plaza parking lot as a temporary retail outlet to sell potted flowers and herbs in the parking lot.

She had applied and was approved last year but ended up not having the business go up as she was unable to find labor and operators and was unable to operate at this location.

Board Member Flansburg and Board Members Piston and Eichenseer asked several questions to clarify how the business would work, if there is sufficient parking, if there would be any lighting or music, how refuse removal would work and hours of operation.

Ms. Krisher explained they make a designated area for parking and if cars come closer to the tent, they put cones out to redirect customers. They have not spoken to the other businesses in the plaza, but none have voiced any opinions about the tent business. She assumed the Landlord of the plaza would inform tenants. She will be open for Easter this year and operate 9:00 a.m. to 6:00 p.m., there is no power to the tent and no music. They have a plan in place for trash removal.

SEQRA Determination:

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

Vote: All Ayes

2. Amira Smajlovic, 21 Black Duck Trail, Rochester, NY, 14626, requests approval for a Conditional Use under Section 250-13.3 and Section 250-5.7-C (1) (a) of the Code to allow the operation of a restaurant (Billy's Homestead) at 1766 Empire Boulevard. The property is currently or formerly owned by Ranchick Corp and is zoned GB. SBL #093.15-1-54. Application #22Z-0014.

There is a request from the applicant to hold this until our April 21, 2022 meeting.

3. Arnold Smeenk/Smeenk Family Foundation, Inc., 3 Nightingale Woods, Fairport, NY, 14450 on behalf of the Rochester Christian School requests approval for the modification of a Conditional Use under Section 250-13.3 and Section 250-5.1-E (1) (k) of the Code to allow the construction of a replacement classroom addition at 260 Embury Road. The property is currently or formerly owned by Rochester Christian School, Inc. and is zoned R-1-20. SBL #108.11-1-1.1. Application #22Z-0015.

Appearances by:

Arnold Smeenk

Michelle Salvaggio - 4 Grouse Point, Webster, NY 14580

Board / Presenter Comments / Questions / Statements:

Board Member Silins summarized they have a twenty by forty (20x40) temporary structure for a classroom. They would like to remove that and put up an addition of the classroom.

There is a twenty (20) foot gap that will be reduced to eight (8) foot closer to the main building.

Mr. Smeenk spoke to the updates, they will match or come as close to match the looks of the original building block. The rear exit of the school will be improving; right now, it breaks out into the twenty (20) foot opening and a covered walkway out to a temporary shed. These will be updated and improved and be a more convenient exit. They are also putting in a handicap accessible ramp to the classroom and gymnasium. No changes in parking or buffering.

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 with conditions and Second by Board Member Flansburg

Vote: All Ayes

4. Jeff Arnold/Splash Car Wash Fairport, LLC, 472 Wheelers Farm Road, Milford, CT, 06461 requests approval for an Area Variance under Section 250-14.3 of the Code to allow a building addition with less front 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 signage with greater graphics, trademarks and logos than allowed under Section 250-10.11-E of the Code, more building signage than allowed under Section 250-10.13-C of the Code with greater total sign area than allowed under Section 250-10.13-B of the Code, a larger freestanding sign than allowed under Section 250-10.12-B (1) of the Code and larger traffic control signs than allowed under Section 250-10.17 of the Code at 2140 Fairport Nine Mile Point Road. The property is currently or formerly owned by Splash Holdings CC, LLC and is zoned GB. SBL #140.01-2-5.1. Application #22Z-0016.

Appearances by:

Jeff Arnold – Applicant

Garret Steiner – DDS Engineering

Board / Presenter Comments / Questions / Statements:

Mr. Arnold gave some handouts showing other car washes they have renovated. They like to renovate older car washes and refurbish them, the landscaping, lighting, drainage, and new equipment. He explained the photos he handed to the Board.

Chairman DeLaus asked what happened at the Planning Board meeting they attended.

Mr. Arnold explained they were told to make improvements to the entrance/drive to create a better swing into the area for a better flow of traffic heading northbound turning into the site.

Garrett Steiner spoke that the Planning Board wanted to see the entrance be more perpendicular for people coming in from the southbound direction. They believe they can square it up, they've tested it and believe they can make it work as Planning Board would like to see. They are addressing items for the Planning Board and will be resubmitting.

They have a vacuum center and have the customers stay to the right and go to the outside lane not the inside lane. So when you drive you'll always be on the right.

There were some customer concerns in that once they enter, they can't get out of the lane. They don't have a perfect answer to that yet. If a customer needs to exit out of pay station they may combine and are close to an agreement with the new Burger King next door. They would like customers to exit the wash and use the free vacuum service.

Chairman DeLaus asked if the application tonight had bearing on what they must resubmit to Planning Board. Mr. Arnold and Mr. Steiner said no. The Planning Boards main points of concern were ingress, egress, and car flow.

To answer why they need the setback variance is that some improvements they want to make is that the wash tunnel is a little short, so they will make it bigger for better washing and drying.

Mr. Steiner stated if they try to put the addition on east side, but they don't have a good turn radius to get into the wash tunnel due to property limits. If they put it on the West side the aesthetic they are providing with the new building and tower will face road and not facing the back access. They want to make the building look more appealing to attract customers.

There was more discussion on the looks of the car wash, with the tower that holds furnaces for drying the cars which is thirty-two (32) feet. Also asked if there would be any traffic issues and Mr. Arnold discussed the traffic flow and spoke of lighting used only while the wash is open.

Chairman DeLaus went over the signage variances starting with the two (2) circular signs on the tower. The code requires the graphics/logo can be fifty (50) percent of sign area and the ones proposed look much larger.

Discussion ensued regarding logos/graphics/identifier for signs and Mr. Suveges explained the difficulties in determining this for these particular signs. Mr. Arnold stated he was open minded and willing to make whatever changes the Town would like regarding size and to modify the logo/graphics.

Mr. Arnold talked about the building mounted signs, and what he felt were the most important needs.

They next discussed the free-standing sign in that the resolution from 1995 allowed for nine (9) square feet larger than allowed but the height was limited, and the person agreed to only have one building mounted sign. In this case Mr. Arnold is asking to keep the building mounted signs and yet still have a larger free-standing sign. Mr. Arnold said that the free-standing sign is the one that brings the most customers to the car wash.

The sign that is there now is thirty-six (36) square feet. They are looking at making it twenty-eight (28) square feet with a height of fourteen (14) feet. They typically have the base of a sign six (6) feet from the ground and then fourteen (14) feet to the top. Fourteen (14) feet is within code. The last issue is the traffic control signs. Mr. Suveges said that two (2) square feet is the maximum. Splash Car Wash would like the bigger signs to make it safer for last minute decision of drivers to give them enough time to see and turn into the driveway; the proposed signs are the size used at their other locations.

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:

Motions made by Chairman DeLaus are as follows:

First is to Approve the request for the graphics, trademarks, and logos.

Second for the Building mounted signs - Approve one extra building mounted sign.

Third - the forty (40) square foot double faced free standing is ok but wants them to check with the Engineering department to make sure the height is ok for safety and to comply with whatever the Engineering department determines.

Fourth - The traffic control signs to be Approved at four (4) square feet given the nature of the traffic flow.

The last item - Area Variance of twenty (20) feet to allow the addition closer than permitted is Approved.

The motions were Seconded by Board Member Silins

Vote: All Ayes

There being no further business the Board adjourned this meeting 8:45 pm.

These minutes were adopted on April 21, 2022.