

Penfield Zoning Board of Appeals

January 19, 2023, Meeting Minutes

The Zoning Board Work session was held at 6:00 p.m. local time with the meeting immediately following on Thursday, January 19, 2023, 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
Mikal Krueger, Legal Counsel	X	
Endre Suveges, Building Inspector	X	
Kristine Shaw, Secretary	X	

II. Regarding Minutes from the Zoning Board meeting November 17, 2022.

Motion made by: To:			Second by:		Board Vote	Y	N
DeLaus			DeLaus		DeLaus		
Eichenseer			Eichenseer		Eichenseer		
Flansburg			Flansburg		Flansburg		
Piston			Piston		Piston	X	
Silins	X	Approve	Silins		Silins		

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 tapes of the 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. ZBA Secretary

Tabled Matters:

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.

Continued Tabled

SEQRA Determination: Not Voted on

Application Vote:

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

Vote: All Ayes

Tabled Matters continued

2. Betsy Brugg/Woods, Oviatt, Gilman, LLP, 1900 Bausch & Lomb Place, Rochester, NY, 14604 on behalf of PathStone Development Corporation requests an interpretation and appeal under Section 250-14.5-A of the Code of the authorized official's determination that the hard-court flex area, dog park, and pedestrian spine features of the PathStone Mixed Use Development proposed for 1801 & 1787 Fairport Nine Mile Point Road do not qualify as non-residential uses for the purpose of meeting the requirements of Table 6.1 of the Town of Penfield Mixed Use Development Manual. The subject properties are currently or formerly owned by WRM Holdings III, LLC and William Wickham and are zoned MUD. SBL #125.01-1-3.111 & #125.01-1-33.11. Application #22Z-0048.

Continued Tabled

SEQRA Determination: Not Voted yet

Application Vote:

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

Vote: All Ayes

Public Hearing Applications

1. David Cox, P.E./Passero Associates, 242 West Main Street, Suite 100, Rochester, NY, 14614 on behalf of Royal Wash Development, LLC requests approval for Area Variances under Section 250-14.3 of the Code to allow the construction of a carwash facility with greater lot coverage than allowed under Section 250-5.7-D (2) of the Code, less setback than required under Section 250-5.7-D (3) of the Code, and less parking than required under Section 250-7.7-D of the Code. The applicant is also requesting approval for a Special Permit for signage under Section 250-10.3-A of the Code to allow a freestanding sign with less setback than required under Section 250-10.12-D of the Code, and two building-mounted signs whereas a maximum of one building-mounted sign is allowed under Section 250-10.13-C of the Code at 1922 Empire Boulevard. The property is currently or formerly owned by 1922 Empire Boulevard, LLC and is zoned GB. SBL #093.02-1-20. Application #23Z-0001.

Appearances by:

David Cox/Passero Associates – Agent

Anthony Danielle – Royal Car Wash

Board / Presenter Comments / Questions / Statements:

Chairman DeLaus spoke to the letter received earlier today from the DiMarco group with concerns about this application. Mr. DeLaus asked to make sure they address these concerns.

David Cox presented to redevelop the old Taco Bell site. They think it's a great re use site and they rely on bypass traffic. They have been looking in Penfield for a while. It is considered a redevelopment site. They have issues to deal with such as utilities, the lot is long and narrow, there is not a lot of commercial development that could go on this lot, but a car wash has a thin long building. This spot is not the smallest site they have used, and they feel they could make it work.

Mr. Cox explained the set up with the ingress, egress, the 'stacking' lane allowances, the set up of the building, enhancements for storm water issues to be made on the lot such as underground chambers and settlement tanks and landscaping. He discussed the sign setbacks which are not out of character with the neighborhood and parking allotments. They tried to come up with the best balance to comply with the codes for setbacks, green space and parking.

The code for parking is to have twenty-one (21) slots, they have eighteen (18). They do not need a lot of spots as people only stop to use the vacuum stations or to quickly ask a question about membership. They have two to six (2-6) employees at a time. They have ten (10) vacuum spots and eight (8) spots for employees.

They would like two building mounted signs, one on the Empire Boulevard side and one on the side of the building. The requested signs are below the size allowed.

Chairman DeLaus –

There was much discussion in regard to the entrance to Baytowne Plaza and the lines close to the car wash specifically for the stacking lanes so as not have cars in line on Empire Boulevard or the thoroughfare. There was discussion on how much traffic would be generated. If they had two (2) lanes there are issues with Department of Transportation that need to be addressed. Then discussion of moving the building to eliminate setback problems. Mr. Cox spoke of the various other Rochester locations and how the stacking lane configurations worked for them. There was discussion if employees would 'police' any back ups and the answer was, yes, they have. Mr. Danielle stated they could take steps to mitigate i.e., putting cones up to deflect traffic.

Chairman DeLaus asked for Mr. Danielle have a discussion with the DiMarco group to address the concerns prior to next month's meeting.

SEQRA Determination: Not voted yet

- ☐ 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 Chairman DeLaus to Table and Second by Board Member Piston

Vote: All Ayes

2. Roger Langer/Greater Living Architecture, 3033 Brighton Henrietta Town Line Road, Rochester, NY, 14623 on behalf of Joshua & Olivia Jones requests approval for Area Variances under Section 250-14.3 of the Code to allow an existing residence and proposed additions with less setback than required under Section 250-5.1-F (1) of the Code at 2094 Baird Road. The property is currently or formerly owned by Joshua Jones & Olivia Klein and is zoned R-1-20. SBL #139.07-2-9.12. Application #23Z-0002.

Appearances by:

Roger Langer/Greater Living Architecture – Agent
Joshua Jones – Property Owner

Board / Presenter Comments / Questions / Statements:

Board Member Silins surmised the application as they would like to put a front porch in, and an addition to the rear of the home. Over the years the road has become wider, so the setback has gotten narrower. The entire home is in the set back so any thing done would need a variance. This home was built in the 1800's.

Mr. Langer said there aren't a lot of alternatives. The existing kitchen was an addition itself and the foundation is deteriorating and is irreparable. The kitchen will be replaced and made larger.

The Jones like the feel of their village home and to keep the character of the home have done some remodeling inside to high light the post and beam construction.

The kitchen and mud room are going on the side of the house, and they designed it to be as far back from the street as they could.

Extra few things, they have a very narrow garage, and it is made deeper than some to accommodate snow blower and other things. There will be some lighting in the front of the house but not extending more into the right of way. Mr. Jones mentioned the house is set where the front and back slopes away from the house so that drainage will go away from the house.

Board Member Silins mentioned there are other homes in the neighborhood just as close to the road.

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 Approve and Second by Chairman DeLaus

Vote: All Ayes

3. Brian Beaird/E.C. Barton & Company, 2929 Brown's Lane, Jonesboro, AR, 72403 requests approval for a Special 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 allowed under Section 250-10.13-C of the Code at 1800 Empire Boulevard. The property is currently or formerly owned by E.C. Barton & Company and is zoned GB. SBL #093.15-1-57.2. Application #23Z-0003.

Appearances by:

Chris White in for Brian Beaird – AdArt Sign, 700 Parker Square, Flower Mound, TX 76226

Bob Orr - E.C. Barton – Regional Vice President – 42 Knollwood Drive, Churchville, NY 14428

Board / Presenter Comments / Questions / Statements:

They are asking for new signs for visibility from Empire Boulevard and Creek Street due to current new construction of Taco Bell next to the property.

If you are driving South down Empire unless you know where the property is, you'll drive past it and on Creek Street there are no signs on that side of the building. There will be a pylon sign put up eventually but none there now. One sign will face Empire Boulevard and the other sign will face Taco Bell.

They are not looking for a bigger sign, and they were asked if they would like to make the first sign larger instead of having two? Mr. White did not think that it would be helpful to make the sign bigger.

The building has one hundred- and ten-foot (110') frontage and the side of the building facing Taco Bell is one hundred eighty feet (180') long with no signs at present time. As customers come in and out of Taco Bell they can see an entrance, an exit, a canopy and not have any idea what the building is. Both signs combined are still smaller than code allows.

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 Eichenseer

Vote: All Ayes

4. Valeriy Poprozhuk, 60 Hampstead Drive, Webster, NY, 14580 requests approval for Area Variances under Section 250-14.3 of the Code to allow an accessory storage building that is larger than allowed 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, and taller than allowed under Section 250-5.1-F (12) (c) of the Code at 60 Hampstead Drive. The property is currently or formerly owned by Valeriy Poprozhuk and is zoned RR-1. SBL #094.04-1-76. Application #23Z-0004.

Appearances by:

Valeriy and Ina Poprozhuk – Property Owner/Applicant

Board / Presenter Comments / Questions / Statements:

Board Member Flansburg summarized that the family would like to add a storage building to hold a Recreational Vehicle (RV), a boat and five (5) All Terrain Vehicles (ATV's).

The Poprozhuks' spoke as to their large family and how in addition, to the above listed items, they will put four wheelers, dirt bikes, road bikes, and soon enough cars inside. The RV & the boat are both forty feet (40') long and feel it is unsightly to have the RV in the driveway for the neighborhood.

There was discussion on making the structure smaller to allow for the size of the property and significantly lower variances needed for the setbacks and the height.

Mr. Poprozhuk says no, the boat will be hard to get around if the building is smaller and they need the space. He said maybe he could work with forty by fifty (40x50) feet. Mr. Poprozhuk feel the roof line blends in with the house on the property and the reason it is tall is because they plan to make the upstairs a playroom as well as area of workspace. There would be power and water to the building.

To use an upstairs of a storage barn as a Rec room brought up the question if the area is considered a living/recreational space. Mr. Poprozhuk said they want a sink for washing hands if they are working on something so the space upstairs is also to work on things.

Chairman DeLaus and Andy Suveges spoke as to the differences of a storage building versus using it as living space and which way the application would be considered for size and height and the reasons for the same and the differences of 'needing' something versus wanting the space.

Board Member Flansburg asked about his 'grass' driveway and the new technology of it. It will have crushed stone under the top layer of grass to make it drivable and able to hold weight of vehicles. The grass driveway will be impermeable, but it will need an additional curb cut. It might require Town Board approval and our Department of Public Works would need to review this for the curb cut and because there is an RG&E box in the front yard.

They also have a conservation easement in the back yard and Board Member Flansburg wants to make sure the grass driveway would not need Department of Public Works approval and does not impact the easement area as there is a lot of work to make this grass driveway, including digging it out, putting crushed stone and lattice down and putting the dirt back and seeding it.

The Board asked Mr. Poprozhuk to get something in writing from the next-door neighbor which is in support of the project.

Public Comments:

Chairman DeLaus received an anonymous comment: It states, 'This property has been under construction since 2019-2020 there is a constant incoming of construction vehicles, massive delivery trucks, and large amounts of debris and a recommendation for the Board to further investigate the property.'

The Poprozhuk said they had a fire in 2020 and insurance wouldn't let them do anything for over a year. After that, Covid happened so they still could not get construction completed.

The Board recapped this application in regard to all the elements discussed.

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:

Application Vote

Motion made by: Board Member Flansburg to Table and second by Board Member Piston

Vote: All Ayes

5. Christian Gascon, 1640 Kennedy Road, Webster, NY, 14580 requests approval for Area variances under Section 250-14.3 of the Code to allow an accessory storage building that is taller than allowed under Section 250-5.1-F (12) (c) of the Code with less setback than required under 250-5.1-F (12) (b) of the Code at 1640 Kennedy Road. The property is currently or formerly owned by Christian & Krista Gascon and is zoned RA-2. SBL #111.01-6-6.212. Application #23Z-0005.

Appearances by:

Christian Gascon – Property Owner/Applicant

Bruce Congdon – neighbor – 1640 Kennedy Road, Webster, NY 14580

Board / Presenter Comments / Questions / Statements:

Mr. Gascon spoke, and he manages properties and purchased a fifth (5th) wheel that is forty three (43) feet long and is looking for storage for this, a dump trailer, a tractor, an aerial ladder, and he has more equipment to store. Some equipment he does store off site.

His property is about ten (10) acres, and his neighbor has a sixty (60) acre lot and then borders a huge field and is about five hundred (500) feet to his closest neighbor. He has gotten support from some neighbors.

He would like a forty by eighty-foot pole barn (40x80). The height is a metal roof, the pitch is not extreme, and will look nicer for aesthetics. Six (6) of the seven (7) feet are the decorative cupolas and he feels adds to making the building look nicer. The height is thirty-seven (37) percent taller than what is allowed but half of that is for the decorative design. The overall height is in concert with the building size. There will be some lights facing the pool,

The Board asked if he could place it elsewhere and he said because of cost he's putting it at the end of his driveway, so he doesn't have to add any more driveway. Mr. Gascon said he drove around there are quite a few barns that are taller than the houses in the area and feels that his will be in character with the neighborhood.

Public Comments:

Bruce Congdon - Neighbor – owns property to the west and is in support of project.

Board / Presenter Comments / Questions / Statements:

Andy Suveges wanted to clarify that the code does not allow for commercial use. Mr. Gascon said everything is in his personal name.

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 Silins

Vote: All Ayes

There being no further business the Board adjourned this meeting 7:55 p.m.

These minutes were adopted on February 16, 2023.