

Penfield Zoning Board of Appeals

January 16, 2025 Meeting Minutes

The Zoning Board Work session was held at 6:00 p.m. local time with the meeting immediately following 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 Members	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. Approval of Minutes for November 20, 2024 meeting. Not voted on

Motion By:	Motion To:	Second By:	Board Vote:	Aye	Nay	Comments
Piston	Approve	Silins	DeLaus Eichenseer Flansburg Piston Silins	X X X X	X	The motion was carried Absent

Approval of Minutes for December 19, 2024 meeting.

Motion By:	Motion To:	Second By:	Board Vote:	Aye	Nay	Comments
Piston	Approve	Silins	DeLaus Eichenseer Flansburg Piston Silins	X X X X	X	The motion was carried Absent

III. 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 people who wish to stay for the remaining portion of the meeting to listen to any deliberation on each matter are then welcome 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 – Secretary.

IV. Tabled Applications:

Tabled Application #1:

1. Huong Nguyen, 2209 Penfield Road, Penfield, NY, 14526 requests approval for a Conditional Use under Section 250-13.3 and Section 250-5.5-C (1) (f) of the Code to allow a combination business/ single-family residential use and an Area Variance under Section 250-14.3 of the Code to allow a parking lot with less buffer than permitted under Section 250-7.2-A of the Code at 2209 Penfield Road. The property is currently or formerly owned by Huong Nguyen and Quang Tran and is zoned BN-R. SBL #140.01-2-7. Application #24Z-0050.

WITHDRAWN

V. Public Hearing Applications:

Application #1:

- I. Kevin Yi, 8480 Warbonnet Way, Las Vegas, NV, 89113 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 and claw machine arcade at 1900 Empire Boulevard. The property is currently or formerly owned by DiMarco Baytowne Associates, LLC and is zoned GB. SBL #093.02-1-23.111. Application #25Z-0001.

Board/Presenter Comments/Questions/Statements:

Kevin Yi – 8480 Warbonnet Way, Las Vegas, NV 89113
 Sean Papp 343 Crystal Creek Dr., Rochester, NY 14612

Public Comments/Questions/Statements:

Chairman DeLaus went over the application. The applicants want to open a Thai Restaurant and arcade with claw machines.

Mr. Yi – They will allow people to use the claw machines even if they aren't having dinner in the restaurant. There will be twenty-eight (28) machines that will hold eight (8) inch stuffed toys.

Board Member Eichenseer asked if the arcade is blocked off from the dining room or open.

Mr. Yi said the arcade will have swinging doors to leave access to the water fountain and bathrooms. There will be two entrances as they are running two separate businesses but accessible as one. The hours of operation will be 11:00 to 9:00 pm. They may have Korean music playing inside. There will not be any outdoor seating. Fire and venting systems will be in place for the kitchen. The town will issue two (2) separate signs for the businesses.

SEQRA Determination/Vote:

Motion By:	SEQRA Action:	Second By:	Board Vote:	Aye	Nay	Comments/Notes:
DeLaus	Type II	Silins	DeLaus Eichenseer Flansburg Piston Silins	X X X X X		Absent

Application Motion/Vote:

Motion By:	Motion:	Second By:	Board Vote:	Aye	Nay	Comments/Notes:
DeLaus	Approve the Thai restaurant and the Claw arcade	Piston	DeLaus Eichenseer Flansburg Piston Silins	X X X X X		The Motion was carried Absent

ZBA findings

1. Is the proposed use in harmony with the general purpose and intent of Chapter 250 of the Penfield Town Code and the zoning district in which it is proposed? Yes No
2. Is the proposed use provided with adequate means of ingress and egress? Yes No
 There are several entrances into the plaza.

3. Is the proposed use provided with adequate parking facilities? Yes No

There is a large parking lot as this is in a plaza.

4. Is the proposed use potentially impactful to both present or future uses? Yes No

There are many similar past, current & future uses.

5. Is the proposed use compatible with the general area in which it is to be located? Yes No

This is a large plaza with various and typical plaza uses.

6. Is the proposed type and amount of signage detrimental to adjacent properties? Yes No

This is a typical tenant in this plaza.

7. Is the potential noise level associated with the proposed use detrimental to adjacent properties? Yes No

There will not be any outside music.

8. Is the proposed use provided with adequate clear sight distance? Yes No

The traffic is well controlled.

9. Is the existing or proposed buffering detrimental to adjacent properties? Yes No

The restaurant is in a plaza. There are no homes close.

10. Will the proposed use generate any noxious odors that will be detrimental to adjacent properties? Yes No

No – They will have adequate ventilation.

11. Is the proposed or existing exterior lighting detrimental to adjacent properties? Yes No

The lighting is not excessive.

12. Are the proposed hours of operation detrimental to adjacent properties? Yes No

The hours are typical for a plaza-based restaurant.

13. Is the proposed use detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or detrimental or injurious to the property and improvements in the neighborhood, or to the general welfare of the Town? Yes No

Conditions

1. The applicant shall obtain a Conditional Use Permit from the Town Clerk's Office and pay the appropriate fee.

2. The applicant shall obtain a Certificate of Inspection from the Penfield Fire Marshal and pay the appropriate fee.

3. The applicant shall obtain a sign permit from the Penfield Building and Zoning Department and pay the appropriate fee.
4. The applicant shall obtain a building permit for construction/renovation associated with the use from the Penfield Building and Zoning Department and pay the appropriate fee.
5. The applicant shall, upon completion of the construction/renovation, obtain a Certificate of Compliance from the Penfield Building and Zoning Department prior to use and occupancy.
6. The applicant is not permitted to provide any outdoor seating without approval from the Zoning Board of Appeals.
7. The applicant is not permitted to provide any live or outdoor music without approval from the Zoning Board of Appeals.
8. The applicant shall comply with the applicable requirements of the NY State Uniform Fire Prevention and Building Code, the NY State Energy Conservation Construction Code, Penfield Town Code and any other applicable County, State or Federal requirements.

Application #2:

2. Chick-Fil-A, 520 Buffington Road, Atlanta, GA, 30349 requests approval for Area Variances under Section 250-14.3 of the Code to allow the construction of a new restaurant with drive-thru and associated site improvements with less setback than required under Section 250-5.6-D (3) of the Code, less buffer than required under Section 250-7.2-A of the Code, less parking than required under Section 250-7.7-D of the Code, and greater lot coverage/less green space than required under Section 250-6.3-F (2) of the Code at 2051 Fairport Nine Mile Point Road. The applicant is also requesting approval for a Special Permit for Signage under Section 250-10.3-A of the Code to allow more building signage than permitted under Section 250-10.13-C of the Code, signage with greater graphics, trademarks, or logos than permitted under Section 250-10.11-E of the Code, and a larger freestanding sign than permitted under Section 250-10.12-B (1) of the Code with less setback than permitted under Section 250-10.12-D of the Code. The property is currently or formerly owned by No Look Landing, LLC and is zoned Limited Business (LB). SBL # 125.17-1-9. Application #24Z-0058.

Board/Presenter Comments/Questions/Statements:

Tabled at the request of the applicant

SEQRA Determination/Vote: Not voted on

Motion By:	SEQRA Action:	Second By:	Board Vote:	Aye	Nay	Comments/Notes:
			DeLaus Eichenseer Flansburg Piston Silins			

Application Motion/Vote:

Motion By:	Motion:	Second By:	Board Vote:	Aye	Nay	Comments/Notes:
DeLaus	Tabled	Piston	DeLaus Eichenseer Flansburg Piston Silins	X X X X		The Motion was carried Absent

There being no further business, the Board adjourned the meeting at 6:30 p.m.
These minutes were adopted on February 20, 2025.

2025 FEB 21 AM 11:50
APPROVED
ANTHONY KALOF
CLERK
FILED
PEPPERDINE, NY

