

**Minutes of the Town of Perinton  
Zoning Board of Appeals  
Meeting of July 28, 2014**

**Zoning Board Members present**

Thomas Young, Chairman  
Vincent Arcarese  
Seana Sartori  
Robin Ward Ezell

**Absent**

Sam Space  
John N. Moose  
Melissa L. Barrett

**Conservation Board Members present**

Ken Rainis  
Chris Fredette

**Town Officials present**

Robert Place, Town Attorney  
Lori Stid, Zoning Board Clerk  
John Overacker, Assistant Building Inspector

**Absent**

John Beck, Zoning Officer

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures. Mr. Young states that Wegmans has been rescheduled to 8/25/14 meeting and will not be heard tonight.

1. Matthew Presher, owner of property located at 193 Loud Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a fence in front of the front setback to be up to 6 feet in height instead of 3 feet in height.

Said property being located in a Residential Sensitive District.

Mr. Presher presented his application to the Board. He submitted photos into the record showing the appearance of the property in 2011, and now in 2014, existing fencing that he has and the proposed fence location is to be no further forward than where it exists now. He submits photos into the record of garbage on the property at the road. He wishes to have the fence to keep people from pulling over off of the road onto his property and dumping cans, bottle, garbage onto his property which ends up in the creek on the property and then goes to the pond on the property and gets clogged with garbage and overflows. That water then moves downhill towards neighbor's foundation. He submits photos into the record showing the south end of the property looking north (down the hill). The post height is 5' – 5 ½', but he was advised to apply for 6' so there wouldn't be any confusion during construction. The style of fencing is split rail and a photo of that was submitted as part of the application. He submits several photos into the record of split rail fences that already exist in the neighborhood (addresses are on the photos). One of the photos is for Stonebrook; the new development. That fence is located much closer to the road than what he is proposing, and its' height is greater than 3'. He submits a letter of support for this request into the record signed by 29 neighbors who live on Loud Road (directly north and south).

He has received comments from the DPW. He contacted 811 Dig Safely, New York and met with the Town DPW. They recommended that the fence was to be placed behind the utility poles. They told him it would be a Fairport Electric issue. He met with Mitch Wilke at Fairport Electric and he ok's the proposed location and said there is no problem. He states that he contacted the MCWA, as there are two fire hydrants and they have no issue and showed him how to go around them. He submits a photo into the record which shows that if the fence were to be placed in front of the poles, it would have to straddle part of a pond and that is the problem.

He wishes to have the fence for safety to help to deter his young children from the road. This style of fencing would allow him the capability of holding horses. In order to accomplish this, the fencing would need to be over 3' in height.

Mr. Young states that CED wants the fence placed behind the utility pole. He inquires if that happens, does that make it straddle the pond? The applicant states yes; at the most easterly portion of the pond. It would be impossible to do that as he would have to set a very long post in the water. Mr. Young inquired as to the style of fencing, and the applicant states split rail. Mr. Young asked where on the property he is proposing to put the fence. The applicant states that he needs the variance for the part of the fence that is located in front of the front setback; other than that portion it doesn't require a variance. Initially, he will install it along the front, and if goes with the ability to be able to hold a horse, then the he will fence the rest as shown. The portion that is north is just for aesthetics. There is other existing split rail fencing on the property that is failing and he would like to repair it in the fashion of the four rail split rail. The fence post height would be 5' to 5 ½'. He was advised by CED to ask for up to 6' so there would be no confusion during construction. Mr. Young asked him to review the communication that he has had with Fairport Electric & MCWA. The applicant states that he called the number for Dig Safely New York to obtain their clearance to do the work and the same with Fairport Electric and he has clearance from both of them for the proposed location. Mr. Young inquires if there is an access agreement that has to be signed. The applicant states that the fence goes around the fire hydrants so they can still access them and wouldn't impede their use to the

fire hydrants. The electric posts are accessed by bucket trucks and don't usually climb the poles. Fairport Electric said they had no issue with it as long as they had enough room to pull their truck over and access the pole. He had the proposed location of the fencing painted on the ground and they saw it and had no concerns.

Ms. Ezell states that she went out to the property and saw the orange paint on the ground for the proposed location.

Mr. Arcarese inquired why he could not accomplish the same thing with a 3' fence. The applicant states that in order to keep a horse it would have to serve as a functional fence. He also wishes to deter his kids from going to the road. He feels it would be aesthetically pleasing. The location would also keep people from pulling over and dumping garbage.

Ms. Sartori inquired how old the children are, and the applicant states 3 and 6. She inquires how many horses he has, and the applicant states 1. She inquires the size, and the applicant states 14 hands.

Ms. Ezell states that she did some research on this to determine how high a fence needs to be to contain a horse. She read that the top level of the fence should be at the eye level of the horse or 6" above his withers that are at the top of the shoulders. She understands why the applicant wishes to have the fence the height he is proposing. She has seen pieces of property with split rail fencing on longer and shorter road frontages, rural, as well as subdivision that look really nice. The applicant already has split rail on his property that goes along the side of the driveway and to continue that would be a nice look. She doesn't think that a shorter fence would deter people from throwing their garbage over it; however, they could still throw their garbage between the rails. She walked the property and saw the garbage in the pond. The applicant states that it is very common for people to pull over there and dump as no one can see them. The applicant states that he has to go out there every week and remove trash.

Mr. Young asked for questions or comments from the Conservation Board and there were none.

Mr. Young asked for questions or comments from CED. Mr. Overacker states that DPW issued comments as follows:

**We previously met with the applicant and told him the proposed fence needs to be installed behind the existing electric poles along the applicant's property.**

Mr. Overacker states that CED issued comments as follows:

- (1) The CED Dept. does not typically support requests to allow a 6-foot fence in front of the front setback. It appears the fence will be extremely close to the road, and there is not a clear rationale for the fence's purpose.**
- (2) The fence should be located behind the existing utility poles and out of the Road Right-of-Way (ROW).**

Mr. Overacker states that if this does go forward, a fence permit is required to be obtained within 6 months.

Mr. Young inquired where the ROW line is. There was a discussion as to where the ROW line is located and shown on copy of survey map. The applicant states that it is 25' from the center of the road. There was a discussion as to where the applicant is proposing to put the fence. Mr. Young states that it appears that the fence is being placed behind the poles. The applicant states that it is not accurate. He states it is 5' to the asphalt and 8' to the white line. It won't be any closer than the existing fence that is already in place. The applicant states that the ROW is right to the power pole.

Ms. Ezell states that MCWA and Fairport Electric apparently don't have an issue with this according to the applicant. She inquires if anyone from Town staff has spoken to Mitch Wilke or anyone from Fairport Electric. Mr. Overacker states not to his knowledge. The applicant states that Mr. Wilke said he would contact the Town.

Mr. Young asked for questions or comments from Attorney Place. Attorney Place states that he agrees with CED, and typically the Town does not encourage fences to be over 3' in the front yard. There has been some where the front yard is the back yard as the owner had two front yards according to Code, but that is not the case here. The length of the proposed fence is substantial, but is mitigated by it being a split rail fence.

Mr. Young asked for questions or comments from the audience. Bill Wilcox, 361 Loud Road, states that he is not sure the neighbors who signed the petition fully understood what the proposal is for. There are no other fences of this height in this neighborhood. It would have a negative impact to the neighborhood. The length of the proposed fence is very long and at 5' to 6' high it would be a massive structure. He doesn't feel that the property is conducive to stabling a horse. The property is very steep and there would be very little land for the horse to exist on. He states that the Egypt Hills Neighborhood Association Board of Directors is opposed to this proposal and has authorized him to state that the Board of Directors is opposed to this request as it is excessive and will be detrimental to the neighborhood. Mr. Young asked how this Association is related to this application. Mr. Wilcox states that the Association represents 90 homeowners on Loud, Thayer, Steele, and Bluhm Roads. Mr. Young inquires if it is a HOA or a neighborhood organization. Mr. Wilcox states it is incorporated.

Judith McNulty, 647 Thayer Road, states that she is unaware of any split rail fence on Thayer Road. She is also on the Board of the Egypt Hills Neighborhood Association and agrees with Mr. Wilcox. She feels it is an excessive request and a dangerous precedent to set for this neighborhood. She doesn't think that you need a fence that high to stable a horse. Jensen horse farm doesn't have fences that high.

Andreas Papas, 430 Loud Road, states that this is a split rail fence; not a stockade. You can see through most of it. There are fences on Thayer Road, split rail, where they keep horses by the pond. Most of the people who signed the petition are dues paying members of the Egypt Hills Neighborhood Association and they don't have any issues with this proposal. The neighbors who are commenting tonight also had an issue when he proposed his addition to his home. He states that the neighborhood is changing and the younger families need to be listened to also, as they will be there for the next 30 or 40 years and should be able to make it their home. He says that traffic comes down the road very fast and he wishes that he had a fence on his property when his kids were little for safety. He has seen cars in the pond on Mr. Presher's property years ago and there was a split rail fence then and that was the only thing that helped to stop the cars. He doesn't understand the issue; it is a see through fence to contain his family and that is all they are here for tonight.

There were no further questions or comments from the audience and Mr. Young closed the public hearing.

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a fence in front of the front setback to be up to 6 feet in height instead of 3 feet in height, subject to the following conditions:

1. Fence is to be split rail style.
2. The highest point on the vertical post is to be at a height of 6'
3. Applicant to obtain a building permit for the fence within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

The benefit cannot be achieved in any other manner. The applicant states that the purpose is to keep the kids in the yard and not easily able to climb over the fence, and larger than 3' is appropriate for that. If the applicant has a horse that he wants to bring onto the property so that the kids can ride, a fence needs to be at eye height of the horse to keep it in and a 3' fence would not accomplish that. The applicant is trying to deter people from pulling over to the side of the road and throwing trash into the yard and pond which has lead to flooding for the neighbor down the way. It will not create an undesirable change to the character of the neighborhood or nearby properties. A split rail fence will look nice in this location; it is a rural area in the Town. This should enhance the property. It is a substantial request in that it doubles the height, but this Board has granted fences in the past for fences of this height that are stockade in style and this proposal is for a split rail fence that you can see through, which helps to mitigate. The request will not have any adverse physical or environmental effects. This request was reviewed by the Conservation Board and they had no concerns. The applicant has spoken with Fairport Electric and the MCWA and they seem to think that this fence location will not impede their ability to carry out any work they may need to do. It is self created, but the applicant is trying to have safety for his children, ability to store a horse, and also attempting to deter people from pulling off of the road and dumping garbage into the pond which effects drainage onto neighboring property. There are a number of positive things that will outweigh the self creation.

Ms. Sartori seconds the motion.

Mr. Place states that the fence cannot be constructed in the road ROW. There was a discussion on the location of the road ROW. The applicant is concerned that the fence will have to straddle the pond. Mr. Place states that you can't construct in the road ROW. The applicant states that the poles are located at the end of the road ROW. Mr. Place suggests that the applicant work with staff in Code Enforcement to determine where the road ROW is on his property. The applicant states that there are other fences in Town that exist today that have done so. There was a discussion on the difference between the setback and the ROW. The applicant would like some clarification on what that means. Mr. Young encourages the applicant to work with staff in Code Enforcement for clarification on the difference between the setback and the road ROW.

Ms. Ezell states that if that is the case, and you are not allowed and if there are no exceptions for this then she will amend the approval as follows:

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C (2), to allow a fence in front of the front setback to be up to 6 feet in height instead of 3 feet in height, subject to the following conditions:

1. Fence is to be split rail style.
2. The highest point on the vertical post is to be at a height of 6'
3. Applicant to obtain a building permit for the fence within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
4. The fence may not be constructed in the road right-of-way.

Ms. Sartori seconds the motion.

Motion carries 4 – 0.

2. Humane Society of Greater Rochester (Lollypop Farm) owner of property located at 99 Victor Road (tax account #181.01-1-29), requesting a variance of the Town of Perinton Sign Code Section 174-5 G, to allow

directional signs to be 6 sq. ft. for proposed signs # 4 and # 12, to be 12 sq. ft. for proposed sign # 5, and to be 16 sq. ft. for proposed sign # 3, all instead of 2 sq.ft.

Said property being located in a Residential Transition 2-5 District.

Adrienne McHargue, Lollipop Farm, presented the application to the Board. They wish to install directional signage for visitors to the campus. They need to have more visibility for visitors coming in as there are multiple entrances and various places within the campus that they may be visiting.

Mr. Young states that they have received comments from the Planning Board as follows:

**The Planning Board recommends approval of the aforementioned variance because the requests for oversized directional signs are warranted. The current site is a large campus that needs proper signage to navigate around the facility. With oversized directional signs the campus will be safer. People from all over the county (and surrounding counties) use this facility frequently and upon their arrival they typically do not know where to go within the facility. The campus needs proper internal signage and larger, simple directional signs accomplish this goal.**

Mr. Young states that the application with renderings and locations of the signs was very helpful. He supports the request.

Mr. Arcarese supports the request. The application was thorough. He supports the request.

Ms. Sartori supports the request and has no questions.

Ms. Ezell supports the request and has no questions.

Mr. Young asked for questions or comments from the Conservation Board, and there were none.

Mr. Young asked for questions or comments from CED. Mr. Overacker states that DPW had no comments.

Mr. Overacker states that CED issued comments as follows:

**(1)The proposed signage will help with the internal traffic flow. The CED Dept. has no concerns with this request.**

**(2)A sign permit is to be issued within six months.**

Mr. Young asked for questions or comments from Attorney Place. Attorney Place states that the Planning Board endorses this request. It does not appear that the benefit to the applicant can be achieved by other means feasible to the applicant. A SEQR determination is required for this unlisted action.

Mr. Young asked for questions or comments from the audience. And there were none. Mr. Young closed the public hearing.

Mr. Arcarese made a motion to grant a Negative Declaration of SEQR.

Granting this variance will not prevent the orderly and reasonable use of this property or any adjacent properties. The public health, safety, and general welfare of the Town will not be adversely affected. The signage will not interfere with the general character of the neighborhood; it will enhance the traffic flow.

Mr. Young seconds the motion.

Motion carries 4 – 0.

Mr. Arcarese made a motion to grant a variance of the Town of Perinton Sign Code Section 174-5 G, to allow directional signs to be 6 sq. ft. for proposed signs # 4 and # 12, to be 12 sq. ft. for proposed sign # 5, and to be 16 sq. ft. for proposed sign # 3, all instead of 2 sq.ft, for application received by the Town on 5/23/14, subject to the following conditions:

1. Applicant to obtain a sign permit within six months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

The applicant needs to have these signs so that traffic within the site will flow smoothly and it will be safer. There will not be any undesirable change to the character of the neighborhood or any nearby properties. This request is not substantial given all of the different things going on at the property; appropriate sized signage is needed for safety. There will not be any adverse physical or environmental effects caused by granting this variance. The difficulty is not self created.

Mr. Young seconds the motion.

Motion carries 4 – 0.

3. Michelle Lampman, as agent for Children's Tumor Foundation, requesting a renewal of a Temporary Activity permit under the Town of Perinton Zoning Ordinance Section 208-54(F), to allow a Children's Tumor Foundation- NF Walk on September 14, 2014. Said walk to begin in Perinton Park at 99 O'Connor Road (tax account # 152.15-2-10) and continue along the canal path toward Cobb's Lane and then return back to Perinton Park.

Michelle Lampman presented the application to the Board for renewal as was submitted to the Town on 6/6/14. The terms are the same as last year. This is their 4<sup>th</sup> annual event; however last year was the first year they received ZBA approval.

Mr. Young states that the application was very thorough and they have permission for overflow parking from Qualitrol if they need it.

Mr. Young states that Recreation & Parks Dept. submitted comments as follows:

## Perinton Recreation and Parks Department

# Memo

**To:** Thomas Young, Zoning Board Chair  
**From:** Jeffrey D. Myers, CPRP, Commissioner of Recreation and Parks   
**CC:** Lori Stid, Zoning Board Secretary  
**Date:** July 7, 2014  
**Re:** Children's Tumor Foundation Walk and Picnic

Our department has received and approved an application for the use of the Perinton Park building and shelter from local resident, Jennifer Johnson, for the Children's Tumor Foundation Fundraising Walk and Picnic. The event is scheduled for Sunday, September 14, 2014. This event was conducted in 2013 with much success.

Requests to include in the event plan:

- For use of Perinton Park, the Recreation and Parks Department requires signage indicating use of the canal trail for the fundraiser walk. They must request that path users slow down, walk their bike and give way to fundraiser walk participants. These signs must be removed shortly after event ends.
- We suggest additional volunteers be positioned along the canal trail to monitor the flow of traffic from spectators and path users.
- Under no circumstances can vehicles block the loop in front of the building, sidewalks or sidewalk ramps.
- Event organizers are responsible for removing all trash related to event or a maintenance fee will apply.
- We currently have no tent permits for event.

We do not have a problem with them conducting this activity as long as they meet all town requirements and pay for the costs associated with this event. Please let me know if you have any questions.

Ms. Sartori inquired if there were any problems or concerns at last years' event, and the applicant states there were none.

The Board members have no concerns as it is the same as was done last year.

Mr. Young asked for questions or comments from the Conservation Board, and there were none.

Mr. Young asked for questions or comments from CED.

Mr. Overacker states that there were no comments from DPW.

Mr. Overacker states that CED issued comments as follows:

**(1)The application should include any conditions imposed by the Parks Dept., as per memo dated July 7, 2014.**

Mr. Young asked for questions or comments from Attorney Place. Attorney Place suggests that they allow the applicant to renew administratively in the future, provided there are no changes to the terms of the event or any concerns regarding the event.

Mr. Young asked for questions or comments from the audience, and there were none. Mr. Young closed the public hearing.

Mr. Young made a motion to grant a renewal of a Temporary Activity permit under the Town of Perinton Zoning Ordinance Section 208-54(F), to allow a Children's Tumor Foundation- NF Walk on September 14, 2014. Said walk to begin in Perinton Park at 99 O'Connor Road (tax account # 152.15-2-10) and continue along the canal path toward Cobb's Lane and then return back to Perinton Park, subject to the following conditions:

1. Subject to the terms of memo from Commissioner of Recreation & Parks dated July 7, 2014, (copy attached).
2. This Special Use Permit may be renewed administratively in the future by the applicant through the Office of Code Enforcement & Development (Zoning Board of Appeals Clerk) provided there have been no significant changes to the terms of the event or any complaints received by the Town pertaining to the event. Applicant shall reapply for the Special Use Permit at least one month prior to proposed event date.

This use will not prevent the orderly and reasonable use of adjacent properties. The public health, safety, and general welfare of the public will not be adversely affected by this activity. Emergency responders have been notified of the event. Certificate of Insurance has been received. The use will not interfere with the general character of the neighborhood. The physical characteristics of the proposed site make it suitable for the proposed use. There is sufficient and appropriate area for this use. The access to the facilities are adequate for the estimated vehicular and pedestrian traffic that this event will create given that they have permission for overflow parking to be at Qualitrol across the street.

Ms. Ezell seconds the motion.

Motion carries 4- 0.

4. Andrea O'Neill as agent for Antoinette Colaruotolo, owner of property located at located at 2287 Turk Hill Road (Casa Larga Vineyard) (tax acct # 180.03-1-28.1), requesting a Temporary Activity Permit under the Town of Perinton Zoning Ordinance 208-54 (F), to allow a Farmers Market inside the lower barn building on the property. Said Farmers Market to be held on Saturdays and Sundays and some holidays with the hours to be Saturday from 8 AM to 6 PM and Sunday from 10AM to 6PM. Said property being located in a Residential Transition 1-2-5 District.

Ms. O'Neill presented the application to the Board as per letter of intent as shown below:

50-14



May 30, 2014

To: Town of Perinton Zoning Officer, Perinton Police Department, Egypt Fire Department, and Perinton Ambulance

Re: Special Use Permit Letter of Intent: Farmers market at the barn at Casa Larga

The items below contain the additional information requested by the Perinton Zoning Board.

**Type of Business:** Farmers' Market that sells Casa Larga Vineyards products as well as products from at least 20 other farmers and vendors.

**Hours of Operation:** 8am-6pm Saturday and 10am-6pm Sunday

**Days of Operation:** Saturdays, Sundays, some holidays

**Employees:** Casa Larga expects to employ 4 employees for each day that the market is in operation. Farm owners will have at least one employee per stall (and additional 20+ employees or vendors)

**Signage:** a painted wagon sign out front that can be moved as needed or required. There is also space to hang banners on the side of the barn on a temporary basis.

**Advertising:** Newspaper, current winery guests, website, and social media

**Parking:** 5000 square feet right next to the barn will be reserved for vendors and disabled accessibility. An additional 2 acres are available across the access road to the West that will be used as well. The parking lots will be either gravel or the parking mesh, which allows grass to grow up through the mesh, yet provides support for the cars.

If there are future questions, please let us know and we can provide the answer.

They feel this will add to the community by giving some farmers and NY based products an opportunity to showcase their products. She states that she has spoken with the Mayor of the Village of Fairport and he is ok with it. The one in the Village is more of a style where the farmer shows up that day with a truck and sells out of the back of it. Casa Larga proposal will be a little different, and will be like the Windmill (Finger Lakes). They want it to look like an Italian marketplace inside. They have checked with the Department of Agriculture and the NYS Liquor authority and have no restrictions with them.

Mr. Place inquired if this proposal is for one year only, or are they proposing this to continue. The applicant states that she assumed that the Town would review it annually.

Ms. Ezell inquired if they are proposing this to be open year round or certain months of the year. The applicant states that they hope to be open year round. There is some work to do to prepare the barn, so it likely wouldn't be open until next spring/summer. They have a grant application into the Dept of Agriculture and are waiting to hear back on that. They plan to move forward whether or not they get the grant.

Mr. Place inquired what the the proposed hours of operation would be. The applicant states Saturdays from 8 AM – 6 PM and 10 AM – 6 PM on Sunday.

Mr. Young states that the application states that they will be open on some holidays; what does that mean? The applicant states that they are looking for flexibility to determine what holidays will work for them and which ones won't. They are looking at around Thanksgiving time, Christmas time, Memorial Day, 4<sup>th</sup> of July, Mother's Day, etc. They are at the Rochester Public Market already as a vendor and at the Windmill, so they already have some experience being an operator I those markets.

Ms. Sartori inquired how many vendors are they proposing, and the applicant states up to 35.

Mr. Young inquired if they would all be contained within the barn, and the applicant states yes.

Mr. Young inquired if any of the neighbors have commented on this proposal, and the applicant states that she has not heard anything. The applicant states that currently the use of the barn is storage for machinery to operate the vineyard. They have told people in the past they have been thinking about doing this and haven't had any negative feedback. They are looking to generate some revenue back to fix the roof tiles on the barn and rebuild the retaining wall.

Mr. Young inquired about traffic safety and parking. He expresses concern of a potential of people parking alongside the road. The applicant states that they will keep all of the parking on the property. They are proposing to do tiles that go over the grass. They would work with an engineer to do that. They may choose to go to gravel lots. They are very aware of containing all of the parking on their property. They have to plow and salt to keep it safe for people in the winter months.

Ms. Ezell inquired if the proposal is for year round. She is concerned about parking in the grass in the snow. She is aware that DPW has requested to review this. She inquires if they may pave or have gravel instead. The applicant states that they have discussed moving it more to a gravel lot. In the past, they have already plowed the grass in this area for when they need room for employee parking. They are looking for an ok to go forward before they invest in the engineering to determine how this will work. Ms. Ezell expresses concern that if people are parking in the grass in the winter coming and going in and out of the same parking spaces all day long that it would damage the lawn.

Ms. Sartori inquires if they will also sell crafts. The applicant states that the idea is to have NY farm based products; cheeses, syrup, flours, etc. Some of the farmers also make crafts. If they wish to sell a craft they are ok with that; however the idea is not to turn it into a craft market.

Mr. Arcarese states that his concern was parking and that has been addressed.

Mr. Young asked for questions or comments from the Conservation Board. Mr. Rainis states that the Conservation Board issued comments as follows:

**We have several questions regarding item #4, the farmers' market at Casa Larga. Four parking areas are drawn on the aerial photo. All are grassed, and 2 have slopes. There is a swale along the entrance drive which must be crossed to park there. The Market will only be held on Saturdays and Sundays in summer, but inclement conditions can happen then.**

**1) According to Perinton Code 208-16C(3) "Any off-street parking area for more than five vehicles shall be surfaced with an asphaltic pavement....The Planning Board may alter this requirement at the time of site plan approval when special conditions exist." Will the Planning Board have an opportunity to review this application? We suggest that if grass is used as the surface, it must be cut short in advance of the Market opening each week. (fire control with engines)**

**2) The slopes in the areas designated for parking should be leveled and/or stabilized.**

**3) How will the crossing of the swale be affected? We suggest a culvert, and railings.**

Mr. Rainis states that the Conservation Board was not aware that the Farmers Market was proposed to be open year round.

Mr. Young asked Mr. Place if this request requires site plan approval from the Planning Board. Mr. Place states that this is AG use and are treated a little different. They are still subject to zoning, but it is a quasi residential application and a funny application of the zoning. In the past the Town has taken the position that if they can meet practical requirements that it satisfies the zoning. He doesn't believe that site plan approval is required for this request. From a practical perspective, he is not sure how well the parking will work in the winter, but in the summer should work well. The DPW has requested to review the proposed parking lot and the proposal for the grass reinforcement mat and they should be able to work things out. He states that he has spoken to the Secretary of State's Office and that is how they feel the zoning should be applied.

Mr. Young asked if they would be crossing the swale. Will they be using both of the sections or just the southern portion. Mr. Place states that any approval should be given for one year and DPW will review this. Neither the Town nor the applicant wants to have unsafe parking. The applicant agrees.

Mr. Young asked for questions or comments from Attorney Place and there was nothing further.

Mr. Young asked for questions or comments from CED. Mr. Overacker states that DPW issued comments as follows:

**We request that the applicant provide for review by the DPW, a detail (i.e. manufacturer's shop drawing) for the proposed Grass Reinforcement Mat and a plan showing the proposed parking lot arrangement, control / delineation for access and addressing storm water management requirements prior to starting construction.**

Mr. Overacker states that CED issued comments as follows:

**(1) This use is consistent with the Town of Perinton Comprehensive Plan. The CED Dept. has no concerns with this application.**

**(2) The parking lot areas need to be approved by DPW.**

Mr. Young asked for questions or comments from the audience. Judith McNulty, 647 Thayer Road, inquired if the entrances/exits would change or if they were adding more entrances/exits. The applicant states that they are not proposing any changes to the entrance/exits. The parking lot is off of their internal service road. You wouldn't be trying to get into the parking lot from Turk Hill.

There were no further questions or comments from the audience and Mr. Young closed the public hearing.

Mr. Arcarese made a motion to grant a Negative Declaration of SEQR. The use will not prevent the orderly and reasonable use of this property or any adjacent properties. The public health, safety, and general welfare of the Town will not be adversely affected by granting this use. The use is in general harmony with and promotes the general purpose and intent of the most recent Comprehensive Plan of the Town and Zoning Ordinance. The use will not interfere with the preservation of the general character of the neighborhood. The physical characteristics and topography of the site make it suitable for the use.

Mr. Young seconds the motion.

Motion carries 4 – 0.

Mr. Place suggests that if they open within a year, the permit should run for a year from open date. If they don't open within a year, they should have to come back to ZBA.

Mr. Arcarese made a motion to grant a Temporary Activity Permit under the Town of Perinton Zoning Ordinance 208-54 (F), to allow a Farmers Market inside the lower barn building on the property. Said Farmers Market to be held on Saturdays and Sundays and some holidays with the hours to be Saturday from 8 AM to 6 PM and Sunday from 10AM to 6PM, subject to the following conditions:

1. Applicant is to provide for review by the DPW, a detail (i.e. manufacturer's shop drawing) for the proposed Grass Reinforcement Mat and a plan showing the proposed parking lot arrangement, control / delineation for access and addressing storm water management requirements prior to starting construction.
2. This permit is valid for one year from date of opening of the Farmer's Market, (Certificate of Occupancy) at which time it is required to be renewed by the applicant by submitting application to the Zoning Board of Appeals for review.
3. The opening of the Farmer's Market (Certificate of Occupancy) is to occur by 8/1/15. If this date is not met, then the applicant is required to re-submit this request to the Zoning Board of Appeals for review. If you do not open the Farmer's Market by this expiration date the permit will become null and void. If you no longer wish to have this permit on the property, please notify the Town in writing that you have discontinued the use, and we will mark it null & void.

There is no other way to obtain the benefit being sought. This is not an undesirable change to the character of the neighborhood or nearby properties. It will enhance the character of the neighborhood as this will be an asset to the Town. There will not be any adverse physical or environmental effects caused by granting this use as long as the parking is contained on the property and the parking plan is submitted and reviewed and approved by the DPW so that if there are any issues they are addressed. This is not self-created. This is a good thing that the owner is trying to do and is an enhancement to the Town.

Mr. Young seconds the motion.

Motion carries 4 – 0.

5. Rick and Donna Wells as agent of Randy and Cathy Smith, owners of property located at 15 County Clare Crescent, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-31 D(1), to allow a front porch addition to set 66 feet from the front property line instead of 70 feet. Said property being located in a Residential A District.

Donna Wells presents the application to the Board. They reside in the home. They are requesting to build an 8' porch and they wish to be able to sit outside and watch them out of the weather. There are a lot of children in the neighborhood.

Mr. Arcarese cautions the applicant that they supplied the Town with a tape location map and not an instrument survey and that they should have a surveyor shoot the front property line for accuracy so there are no issues with the setback.

Ms. Sartori asks if the porch is 8' or 9', as the application states 9'. The applicant states that they asked for 9' just to make sure they had enough room.

The remaining Board members feel that this will enhance the home.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Young asked for questions or comments from the Conservation Board, and there were none.

Mr. Young asked for questions or comments from CED. Mr. Overacker states that DPW had no comments.

Mr. Overacker states that CED issued comments as follows:

**(1) The CED Dept. has no concerns with this application. A building permit is to be issued within one year.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place asks if they plan to build as per elevations that were submitted, and the applicant states yes.

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Sartori made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-31 D(1), to allow a front porch addition to set 66 feet from the front property line instead of 70 feet, subject to the following conditions:

1. Applicant to obtain a building permit within one year from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. Applicant to construct as per elevations submitted.

The benefit being sought cannot be achieved by any other means feasible to the applicant. There will not be an undesirable change to the character of the neighborhood or nearby properties; it will enhance the property and the neighborhood. The request is not substantial. It is self-created, but the benefit achieved is outweighed by that.

Ms. Ezell seconds the motion.

Motion carries 4 – 0.

6. Michael Houk, owner of property located at 77 Squirrels Heath Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-32 D (1), to allow a front porch addition to set 37.4 feet from the front setback instead of 40 feet, as per the approved subdivision map. Said property being located in a Residential B District.

Mr. Houk presented the application to the Board. He states that he is not asking for a porch; he is asking for an enclosed bump out of the house. He submits an elevation into the record. They are doing extensive renovations to the house and it makes sense to have a small foyer in this space. It is a modest addition covering an existing stoop that has a foundation. It will improve the look of the home. It appears that most of the neighbors are of a similar setback from the road. He submits a letter into the record from one of his neighbors supporting the request and an elevation. The application that was submitted included numerous letters of support from existing neighbors.

All of the Board members felt this request was minor and support it.

Mr. Young asked for questions or comments from the Conservation Board and there were none.

Mr. Young asked for questions or comments from CED.

Mr. Overacker states that DPW had no comments on this request.

Mr. Overacker states that CED issued comments as follows:

**(1) The CED Dept. has no concerns with this application. A building permit is to be issued within one year.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place inquired if the applicant was ok to construct the addition as per specs submitted and the applicant states yes.

Mr. Young asked for questions or comments from the audience, and there were none.

Ms. Ezell states that the front elevation looks like an enclosed porch, but the applicant has mentioned it is really an enclosed foyer over the porch. She inquires if it will look like what he submitted, and the applicant states yes. Ms. Ezell states it looks like an arch over the current porch. The applicant states that the front is inset a little bit and with the way the shadowing of the elevation is it looks like it is much more deeply inset. Ms. Ezell feels that it would be more appropriate to show the addition at 37' and not 37' 4" as that will give him a little bit of room.

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-32 D (1), to allow an addition to set 37 feet from the front setback instead of 40 feet, as per the approved subdivision map, subject to the following conditions:

1. Applicant to obtain a building permit within one year from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

2. Applicant to construct addition as per elevations submitted to the Town tonight.

The applicant is proposing to enclose a porch that he already has with a little bit of an inset to his foyer area. There is no other way to obtain the benefit being sought. It is a good use of the existing porch. It will enhance the neighborhood. The position of his front door, in relation to his neighbor's, will be set back a little bit so that it is not a direct line from the neighbors. It is not a substantial request. There will not be any adverse physical or environmental effects caused by granting this variance. The difficulty is self created but is not outweighed by all of the benefits and improvements to the home and the neighborhood.

Mr. Arcarese seconds the motion.

Motion carries 4 – 0.

7. Claude Tribastone, owner of property located at 250 Ryan Road, requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-37 B (1), to allow a second garage on the property instead of one garage per property;
2. Section 208-14 R (1), to allow the second garage to be 1152 sq. ft instead of 600 sq. ft. and to allow said garage to be 21 feet in height instead of 20 feet in height.

Said property being located in a Residential Transition 2-5 District.

Mr. Tribastone states that he wishes to have this for storage of tractor, trailer, ATV's, and a vehicle. He has 21 acres. He does not wish to store any of the equipment outside. He has 21 acres of land. The structure will be over 120' from the north property line that currently doesn't have any homes on it yet. To the south is the Martin's who have 67 acres. This is very remote.

Mr. Place inquired if he plans to construct as per plans submitted to the Town and the applicant states yes. The building will be metal and will have a footer with a slab; not a monolithic slab.

The Board members all support the request as submitted.

Mr. Young asked for questions or comments from the Conservation Board and there were none.

Mr. Young asked for questions or comments from CED. Mr. Overacker states that DPW had no comments.

Mr. Overacker states that CED issued comments as follows:

- 1. The CED Dept. typically does not support an oversized garage of this nature. However, this property is located on approximately 21 acres, and therefore, it appears the request will not have an adverse effect to the surrounding properties. The CED Dept. has no concerns with this application. A building permit is to be issued within one year.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that the plan submitted mitigates the impact because there is some variety to the elevations and there is sufficient distance between him and the neighbors.

Mr. Young asked for questions or comments from the audience and there were none.

Mr. Arcarese made a motion to grant the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-37 B (1), to allow a second garage on the property instead of one garage per property;
2. Section 208-14 R (1), to allow the second garage to be 1152 sq. ft instead of 600 sq. ft. and to allow said garage to be 21 feet in height instead of 20 feet in height,

All subject to the following conditions:

1. Applicant to obtain a building permit within one year from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. Applicant to construct as per elevations submitted.
3. There is to be no outside storage of equipment.

The applicant has 21 acres of land and wishes to store his equipment inside. The benefit cannot be achieved in any other means feasible. It will not be an undesirable change to the character of the neighborhood as there is 21 acres of land and is far enough away from any existing neighbors. There will not be any visual impact to the neighbors. It is a substantial request, but is mitigated by the fact that this is a remote area and has 21 acres of land. There will not be any adverse physical or environmental effects caused by granting this variance. It is self-created, but is mitigated by storing the equipment inside.

Ms. Sartori seconds the motion.

Motion carries 4 – 0.

8. Art Pires, Project Manager Wegmans Development Group, as agent for Wegmans Food Markets, Inc., owner of property located at 6604 Pittsford-Palmyra Road, (tax id #165.20-3-53.2 - 11.39 acre parcel, tax id #165.20-3-53.1 - .78 acre parcel & tax id#166.17-2-33 - 10.3 acre parcel), requesting an amendment to a previously approved area variance on 2/27/01 under Town of Perinton Zoning Ordinance Section 17.03 to allow an 80' clock tower. The amendment is to change conditions # 1 & #3 to allow three internally lit clock faces; one on each of the east, west, and south tower faces instead of the previously approved one clock face on the south side, and to allow up lighting, one on each side of the tower at the base of the steeple, providing for architectural up lighting of the tower for the three clock faces instead of no lighting allowed. Said property being located in a Commercial District.

**rescheduled - 8/25/14**

**Discussion - Minutes – 6/23/14**

Mr. Arcarese made a motion to approve the minutes of 6/23/14 as amended

Ms. Ezell seconds the motion.

Motion carries 3 – 0, with one abstention of Mr. Young due to absence.

There being no further business before the Board, the meeting adjourned at 9:06 PM.

Respectfully Submitted,

Lori L. Stid, Clerk