

**Minutes of the Town of Perinton
Zoning Board of Appeals
Meeting of April 22, 2013**

Zoning Board Members present

Vincent Arcarese, Acting Chair
Sam Space
Melissa L. Barrett
Seana Sartori
Robin Ward Ezell

Absent

Thomas Young, Chairman
John N. Moose

Conservation Board Members present

Chris Fredette
Robert Salmon

Town Officials present

Robert Place, Town Attorney
John Beck, Zoning Officer
Lucy Reeder, Temporary Secretary

Absent

Lori Stid, Zoning Board Clerk

Mr. Arcarese states that he will be acting as Chairman tonight, as Mr. Young is unable to attend. Mr. Moose is also not able to attend. He called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures.

1. Eric Hynes, owner of property located at 388 Loud Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-38 B (1) and Section 208-14 R (1), to allow to allow a second garage (detached) on the property instead one garage, and further to allow the second garage to be 2500 sq. ft. instead of 600 sq. ft. and 33' 4" in height instead of 20 feet. Said property being located in a Residential Sensitive District.

Mr. Hynes states that he wishes to have a 2nd garage to be 2500 sf and to have a ridge elevation of 33'4". On January 24, 2000, he received approval from this Board to allow his parcel to be designated a farm with 4.819 acres and not 5 acres. He did not know there was a difference between a barn and an accessory garage, which is why he is back before the Board today. He wants to store his motor home, classic car, snowmobiles, four wheelers, and lawnmower. He has children and ½ of the existing garage is taken up with storage of items for the children. He and his wife have three vehicles combined. The roofline will match the home.

Mr. Space asks if he is willing to build as per elevations submitted and the applicant states yes.

Ms. Ezell asks if he will have to remove trees to build this structure and the applicant states yes. Ms. Ezell feels that it is still heavily wooded and will not be viewed by neighbors. It sits well back from the road. She asks why there is a 2nd floor. The applicant states it is for storage. She asks if there will be plumbing and the applicant states no. He states it is not his intention to do anything other than storage in this space. If it is ever his intention to do anything other than storage, he realizes that he would need to come to the Town for permission.

Ms. Barrett asks if he would be ok with a condition of approval that the 2nd story not be used as living space, and the applicant states yes.

Ms. Sartori asks if any neighbors have expressed concern to him. He states that a couple of his neighbors have come over and looked at the proposal and have not stated any objections.

Mr. Arcarese asked for questions or comments from the Conservation Board. Mr. Salmon asked where the downspouts would be piped. The applicant states into the pond.

Mr. Arcarese asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

This application requires site plan approval, per Section 208-38.

The proposed garage appears to be well-screened from both the front and side property lines. The CED Dept. has no concerns with this application. A building permit is to be issued with one year of site plan approval.

He states that CED requests that a condition be placed for any approval that the upstairs be used for storage only, and any downspouts be directed to the pond.

Ms. Ezell states that one of the neighbors sent a letter to the Town that was received on 4/22/13 as shown below:

I have reviewed the drawing for the building of a "detached garage" on Friday for 388 Loud Road and have some concerns as listed below:

- 1. The size of 2500 sq ft and 33ft high seems excessive for a garage of lawn mowers, 4 wheelers, and trucks for the owner of this property.**
- 2. The height of 33 feet is about 3 stories high and will block neighbors' views that are located beside and behind this address.**
- 3. A resident that is listed for the 2nd floor is a second resident in Egypt Hills Neighborhood which violates the zoning for this area.**
- 4. There is a concern that heavy construction equipment will be housed in this garage that is located in a residential sensitive district.**
- 5. There is a concern about the pond located in the forward part of the property but extremely close to the building and causing reconstruction of the pond that had issues from the first construction.**

Thank you for taking our concerns as a neighbor of this address.

Margaret and John Wilcoxon

Mr. Hynes states that this building will not be used for business purposes. It is for storage.

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place asked how many square feet the house is. The applicant states it is 3,000 sf. Mr. Place states that this lot is large and has large setbacks and they are proposing this to be set back far also. If he was on a smaller lot, or if he was closer to the lot line, then it would be an issue, but as it is, no one is really going to see this. He suggests that if this is approved then it be built as per elevations submitted.

Mr. Arcarese asked for questions or comments from the audience. Bill Wilcox, 361 Loud Road, states that he is across the street. This sits back about 330' from the road. He has reviewed this application and feels that this will look very good when completed. He understands the need for additional space. He states that he has a large 1250 sf building with a 2nd floor on it and if he was building it today, he would build it larger. These large lots require a lot of storage space to maintain. He is in favor of this request.

Tim Driscoll, 292 Loud Road, feels that this will look good and he doubts anyone will even see it.

Margaret Wilcox, 366 Loud Road, states that she is directly behind 388 Loud Road. The pine trees are on her property and it does hide a lot of it. The pond originally had some issues with flooding. She is concerned with runoff from the garage going into the pond and coming back into her driveway. Mr. Place states that if this goes forward tonight, she should come to any Planning Board meetings that are held for this request, as that would be a site plan issue.

Mr. Arcarese closed the public hearing.

Mr. Space made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-38 B (1) and Section 208-14 R (1), to allow to allow a second garage (detached) on the property instead one garage, and further to allow the second garage to be 2500 sq. ft. instead of 600 sq. ft. and 33' 4" in height instead of 20 feet, subject to the following conditions:

1. Subject to the applicant receiving site plan approval from the Planning Board.
2. A building permit is to be issued with one year of site plan approval.
3. This structure is to be used for storage only and not as living space.
4. Applicant to build as per elevations submitted.
5. Flow of downspouts to be determined at time of site plan approval.

The benefit cannot be achieved in any other manner feasible to the applicant. This is the best location for this structure. There will not be an undesirable change to the character of the neighborhood or nearby properties. Aesthetically, this will be an improvement. This structure is set far back and will not be able to be seen from the road. There will not be any adverse physical or environmental effects, as any question as to environmental effects, such as runoff, will be examined by the Planning Board at the time of site plan approval.

Ms. Sartori seconds the motion.

Motion carries 5 - 0

2. Henrey Jetty, owner of property located at 28 Larchwood Drive, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-31 D (1), to allow a proposed 8'x14' addition to set 8.8 feet from the side property line instead of 15 feet.
Said property being located in a Residential A District.

Mr. Jetty states this is for a bathroom addition.

Mr. Arcarese asked if there were other alternatives available. Why is he expanding the bathroom rather than building a new bathroom in a different location. The applicant states that he has two septic. There is no other way to move it out in any other direction than this.

The remaining Board members had no questions.

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

Mr. Arcarese asked for questions or comments from CED. Mr. Beck states that the DPW issued comments as follows:

The gutter downspouts should not be directed towards the neighboring property.

Mr. Beck states that CED issued comments as follows:

CED Dept. has no concerns with this application. A building permit is to be issued with one year.

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place states that if this moves forward, he suggests that they require it to be constructed as per elevations submitted.

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

Mr. Arcarese closed the public hearing.

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-31 D (1), to allow a proposed 8'x14' addition to set 8.8 feet from the side property line instead of 15 feet, subject to the following conditions:

1. Applicant to obtain a building permit within one year. 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 build as per elevations submitted.
3. Gutter downspouts should not be directed towards neighboring property.

There is no other feasible means to achieve the benefit being sought. There are two septic systems which prohibit him from moving this bathroom to either of those locations. There will not be any undesirable change to the character of the neighborhood; and will likely enhance the value to the neighborhood. It is not a substantial request. There will not be any physical or environmental detriment to the area. It is self created, but is out-weighted by the positive.

Mr. Arcarese seconds the motion.

Motion carries 5 - 0

3. Stephen Smeenck, owner of property located at 163 Jefferson Ave, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-32 D (1), to allow a proposed garage (24' X 24') to set 5 feet from the side property line instead of 15 feet.
Said property being located in a Residential B District.

Mr. Smeenck presented his application to the Board. He wants the garage to be at the end of his driveway and not in the middle of his backyard. He also has a septic tank and leach field in the backyard.

Ms. Barrett asks if any of the neighbors have objected and the applicant states no.

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

Mr. Arcarese asked for questions or comments from CED. Mr. Beck states that the DPW issued comments as follows:

The gutter downspouts should not be directed towards the neighboring properties.

Mr. Beck states that CED issued comments as follows:

1. **A remodeling permit is to be issued for the existing garage within six months from the date of the Certificate of Compliance of the proposed new garage.**

2. A building permit for the proposed new garage is to be issued within one year.

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place asks if they will be able to maintain it with a 5' setback; paint it, side it, or put a ladder against it. The applicant states that the neighbors are good friends and it is not an issue. Mr. Place states that over time these properties may sell, and this could become an issue. Could it be shifted a little bit to the north? The applicant states that it runs the risk of hitting the distribution box and the septic system; his lot is very narrow.

Mr. Arcarese asks if he shifts it a little bit to the north, then the distribution box is an issue and the septic tank is more towards the front of the garage. He has a map from the County, but it is not real exact even though the septic is only five years old.

Ms. Ezell asks if he will paint it or side it. The applicant states metal siding that has a 40 year warranty on the paint. He doesn't plan to paint it.

Mr. Arcarese asked for questions or comments from the audience.

John Spoto, 790 Ayrault Road, states that they could use scaffolding if a ladder is an issue.

Mr. Arcarese closed the public hearing.

Mr. Arcarese made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-32 D (1), to allow a proposed garage (24' X 24') to set 5 feet from the side property line instead of 15 feet, subject to the following conditions:

1. A remodeling permit is to be issued for the existing garage within six months from the date of the Certificate of Compliance of the proposed new garage.
2. A building permit for the proposed new garage is to be issued within one year. 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.

This is a very narrow lot and there is no other feasible way to obtain the benefit being sought. There is a septic tank and leach field in the backyard which would prevent his from shifting this structure further to the north. There will not be an undesirable change to the character or nearby properties. It is a substantial request; however, because the lot is so narrow and there are constraints from the septic system, there is really no other choice. There will not be any adverse physical or environmental effects caused by granting this variance. It is self created; however, the applicant needs storage space.

Ms. Ezell seconds the motion.

Motion carries 5- 0.

4. John Spoto, owner of property located at 790 Ayrault Road- Star Physical Therapy, requesting a variance of the Town of Perinton Sign Code Section 174-9 (B), to allow one building mounted sign (3'x10' - 30 sq. ft.) instead of a freestanding sign. Said property being located in a Restricted Business District.

Mr. Spoto presents his application to the Board. There is currently a monument sign at the corner that he doesn't feel is very visible from multiple directions. This is a very busy corner. They feel that a building mounted sign would allow the business to be easily identified.

Mr. Space asks if they plan to remove the monument sign. Mr. Spoto states that he was asked to remove the monument sign to make this process easier. If he wants to keep it, he realizes he will need to obtain a variance for that. The building mounted sign will have a new front and will be translucent white with black lettering. They are open 24/7 and it will give them that much more light without causing any distraction to drivers.

Ms. Barrett asks what he is hoping that the building mounted sign will achieve. The applicant states that it will add some class to the building and will change the image of the building, and provide light. There are 30' tall trees in front of the building that initially were 5' tall and now they block visibility of the building. He plans to remove those trees to have the building be more visible. She asks if it will increase his business. The applicant states that he hopes so. The trees are overgrown and need to be removed; people can't see the building. There have been deaths at this intersection.

Ms. Ezell asks about people coming from the Village of Fairport; if they remove the ground mounted sign, how will they even know the business is there? Mr. Spoto states that coming from the Village today, you can't see that sign. You can't see it coming from west to east. The only place you can see it is coming from south to north. Ms. Ezell asks about the other signs. The applicant states that one is StarFit, which is the fitness component of the business. There is also a chiropractic business in there. If they want signage at the corner, they will have to go to the ZBA for a variance.

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

Mr. Arcarese states that the Planning Board issued comments as follows:

The Planning Board recommends approval of the aforementioned variance because the applicant has worked with the Town to reach this optimal solution. Removing the code allowed monument sign is a good compromise for adding a single building mounted sign. The applicant needs more exposure for their business and they feel a building mounted sign along with trimming the existing plantings and landscaping will accomplish this need. The Planning Board has approved the sign pending Zoning Board approval, and made a condition that no additional tenants be placed on the building mounted sign. The existing monument sign shall also be removed.

Mr. Arcarese asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

- 1. The Planning Board approved the sign application on March 20th, 2013 with the condition the existing freestanding sign be removed.**
- 2. The CED Dept. has no concerns with this application. A sign permit is to be issued within six months.**

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required on this application.

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

Mr. Arcarese closed the public hearing.

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

The use will not prevent the orderly and reasonable use of adjacent property or properties in the adjacent use district. The public health, safety, and general welfare of the Town will not be adversely affected by the proposed use. He feels that it will be enhanced as it will allow for more visibility and lighting. The use will not interfere with the general character of the neighborhood.

Ms. Barrett seconds the motion.

Motion carries 5 – 0.

Mr. Space made a motion to grant a variance of the Town of Perinton Sign Code Section 174-9 (B), to allow one building mounted sign (3' x10'- 30 sq. ft.) instead of a freestanding sign, subject to the following conditions:

1. The existing freestanding sign be removed.
2. No additional tenants be placed on the building mounted sign.
3. A sign permit is to be issued within six months. If you do not obtain your sign 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.

Removing the code allowed monument sign is a good compromise for adding a single building mounted sign. The applicant needs more exposure for their business and they feel a building mounted sign along with trimming the existing plantings and landscaping will accomplish this need. The Planning Board has approved the sign pending Zoning Board approval, and made a condition that no additional tenants be placed on the building mounted sign. The existing monument sign shall also be removed.

Ms. Barrett seconds the motion.

Motion carries 5 – 0.

5. Scott Youngman, owner of property located at 354 Jefferson Ave, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow a second accessory building on the property instead of one accessory building, and to allow the second accessory building to be 336 sq. ft. instead of 200 sq. ft. Said property being located in a Residential C District.

Mr. Youngman presents the application to the Board. They have four drivers and a two car garage. The garage is full. He has a classic car and a couple of motorcycles, a classic car, tractor, lawnmower, and patio furniture.

Mr. Arcarese asks if they plan to store everything inside. The applicant states yes.

The Board felt that the application was very thorough.

Ms. Ezell asks if the neighbors have offered any comments; especially the neighbors behind them. The applicant states that he hasn't had any objections from his neighbors. There is an existing hedgerow that is almost the whole property; except for about 6' of the end of the building, it will all be screened by the hedgerow.

Mr. Arcarese asked for questions or comments from the Conservation Board. Ms. Fredette states that it is obvious from the site visit that this applicant needs more storage space.

Mr. Arcarese asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

1. The CED Dept. recommends additional screening to be placed along rear property line.
2. A building permit is to be issued with six months.

Mr. Arcarese asked if the applicant is ok with additional screening in this location. The applicant states that he has no objection. He asks if the screening has to be greenery screening or fence screening. He has some extra fencing that he could use. Mr. Arcarese states that he would prefer greenery. The applicant states that he is ok with adding arborvitae.

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

Mr. Arcarese closed the public hearing.

Ms. Barrett made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow a second accessory building on the property instead of one accessory building, and to allow the second accessory building to be 336 sq. ft. instead of 200 sq. ft., subject to the following conditions:

1. Additional screening (greenery) to be placed along rear property line.
2. A building permit is to be issued with 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.
3. There is to be no outside storage.

The benefit cannot be achieved in any other manner feasible to the applicant as he has a lot of storage needs. It will not be an undesirable change to the character of the neighborhood; it will enhance the property and the neighborhood overall. The request will not have any adverse physical or environmental effect.

Mr. Arcarese seconds the motion.

Motion carries 5 - 0

6. David and Suzanne Scheirer, owners of property located at 4383 Carter Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow an accessory building to be located on the property instead of the requirement of having a residence on the property, and to allow said accessory building to be 720 sq. ft. instead of 200 sq. ft. Said property being located in a Residential Transition 1-2-5 District.

application withdrawn

7. Heinrich Fischer, owner of property located at 722 Ayrault Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow a proposed accessory building to be 240 sq. ft. instead of 200 sq. ft. Said property being located in a Residential B District.

Mr. Fischer presents his application to the Board. He had some damage to previous accessory building from tree damage and that building has been razed. He meets the required setbacks.

Mr. Space asked if any of the neighbors have objected, and there were no objections submitted.

The remaining Board members felt the application was thorough and had no questions or concerns.

Mr. Arcarese asked for questions or comments from the Conservation Board. Ms. Fredette states that the Conservation Board understands that he needs to replace the accessory building.

Mr. Arcarese asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

1. The existing shed is to be removed.
2. A building permit for the proposed new shed is to be issued within six months.

Mr. Arcarese asked for questions or comments from Attorney Place, and there were none.

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

Mr. Arcarese closed the public hearing.

Mr. Arcarese made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow a proposed accessory building to be 240 sq. ft. instead of 200 sq. ft, subject to the following conditions:

1. The existing shed is to be removed.
2. A building permit for the proposed new shed is to be issued 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 benefit cannot be achieved in any other manner feasible to the applicant. He has removed the damaged shed already. The new shed will be a downsize from what existed, therefore there will be no undesirable change to the character of the neighborhood or nearby properties. It is not a substantial request. There will not be any adverse physical or environmental effects on the property. The difficulty is not self created; the previous shed was damaged and needed to be removed.

Mr. Space seconds the motion.

Motion carries 5 – 0.

8. Cheryl Eigg, owner of property located at 2 Cabernet Circle, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-36 D(1), to allow a proposed garage addition to set 15 feet from the front property line (Cabernet Circle) instead of 25 feet – as per the approved subdivision map. Said property being located in a Residential Transition 1-2-5 District.

Ms. Eigg presents her application to the Board. She states that they wish to enlarge the garage for more storage space and will be done in connection with a kitchen addition. Before they purchased this lot they asked the Town if they could build this addition and were told yes.

Mr. Arcarese asked if the applicant has spoken with any of the neighbors regarding this application. Ms. Eigg states that they sent a letter of introduction to the neighbors regarding this request, and everyone seems to be understanding.

Mr. Arcarese states that this lot has two front yards according to code.

MS. Ezell asks if any trees have to be removed, and the applicant states two small pines next to the driveway. They will leave the mature large pine trees in the backyard. Ms. Ezell asks if the screening will remain between house #2 and house #4. The applicant states yes.

Mr. Arcarese asked for questions or comments from the Conservation Board. Mr. Salmon states that the site is relatively flat and the Conservation Board has no concerns.

Mr. Arcarese asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

- 1. There are several mature trees located on the property. If these trees will be removed additional landscaping should be installed.**
- 2. A building permit is to be issued within one year.**

Mr. Beck states that the applicant has stated that they are not removing the large mature trees, so CED concerns regarding the mature trees are satisfied as long as those trees are not removed.

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place states that this was an old 278/281 subdivision, that had reduced setbacks and the setbacks from that approved subdivision are 25’.

Mr. Arcarese asked for questions or comments from the audience. Chris Fredette, 3 Cabernet Circle, states that the applicant sent the neighbors a form letter explaining what they are asking for and when this public hearing was scheduled for. She is in support of this request.

Mr. Arcarese closed the public hearing.

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-36 D(1), to allow a proposed garage addition to set 15 feet from the front property line (Cabernet Circle) instead of 25 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.

The benefit of a larger garage and kitchen addition cannot be obtained in any other manner feasible to the applicant. This property is a corner lot and is impeded by Code in that it has two front yards. They will not reduce any fencing or trees between this property and house #4; therefore there will not be a significant change to the character of the

neighborhood. The request is substantial; however, this property is impeded by the fact that there are two front yards.

Mr. Arcarese seconds the motion.

Motion carries 5 – 0.

9. The Summit Federal Credit Union, owner of property located at 665 Moseley Road, requesting a variance of the Town of Perinton Sign Code Section 174-9 (B), to allow a two building mounted signs (61.24 sq. ft. each), instead of a freestanding sign.
Said property being located in a Restricted Business District.

Alan Knaufl, Esq., presented the application to the Board, as per letter of intent as shown below.



orig 22-13



Canal Ponds Business Park
100 Marina Drive
Rochester, New York 14626
Telephone (585) 453-7000

March 22, 2013

Town of Perinton
Zoning Board of Appeals
1350 Turk Hill Road
Fairport, NY 14450-8796

Re: The Summit Federal Credit Union Area Variance
665 Moseley Road

Dear Sirs:

Enclosed please find twelve copies our Application for an Area variance to allow for two building mounted signs for our property located at 665 Moseley Road as well renderings of the signage we are requesting. We have also enclosed photographs of building mounted signage on parcels within Perinton Hills and/or of that of other financial institutions within a very close proximity to our property. We are desirous of being placed on the agenda for the April 22, 2013 meeting of the Zoning Board of Appeals.

Our request for signage was unanimously approved by the Town's Planning Board on March 20, 2013. The building which the signs we be displayed is currently under construction and we anticipate an opening date in June of 2013.

The granting of our request will allow for our institution to be identifiable to the community and is consistent with existing signage in the area.

Our comments relative to the standards associated and factors associated with the granting of the area variance are as follows:

- A) We do not believe the requested signage is substantial
- B) There will not be an undesirable change to the character of the neighborhood, nor with there be any detriment to adjoining properties
- C) The request may not be achieved via another method
- D) The difficulty is not fully self-created due to our parcel being spilt into two zones, Commercial and Restricted Business
- E) The requested signage will not have an impact on the physical or environmental conditions of the neighborhood

We look forward to appearing before you. If you should require any additional information prior to the April 22nd meeting, please do not hesitate to contact me.

Very truly yours,

The Summit Federal Credit Union

The Planning Board has approved the site plan and they support this request. This lot is essentially a corner lot and they really need exposure on both Route 31 and Moseley Road. Monument signage would not be visible to traffic.

The signs would be on the east and west side. There will not be a monument sign. There are a number of competitors in the immediate area with similar signage.

Mr. Brewer states that Summit has been open in Rochester since 1941, and this will be the 19th office in Rochester, Buffalo and Syracuse. Currently, the closest branch is in Penfield. The sign is halo, back lit with low intensity.

The Board members had no questions or comments.

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

Mr. Arcarese states that the Planning Board issued comments as follows:

The Planning Board recommends approval of the aforementioned variances because the applicant needs exposure for their business both on Route 250 and also on Route 31. The existing property can be seen as a corner lot within the Perinton Hills Plaza. A single monument sign will not be visible from Route 250 and Route 31 at the same time. In addition, a single building mounted sign will not be enough to achieve visibility from both the main roads and from within the plaza itself. The request works well with the approved site plan. The signs are very attractive and the request is minimal. In addition, eliminating the code allowed monument sign is a good compromise for adding two building mounted signs. The Planning Board has approved the signs pending Zoning Board approval.

Mr. Arcarese asked for questions or comments from CED.

Mr. Beck states that CED issued comments as follows:

- 1. The Planning Board approved the sign application on March 20, 2013, with the condition the sign is illuminated by halo illumination, and the lettering is black.**
- 2. The proposed signage is consistent with the surrounding business. The CED Dept. has no concerns with application and a sign permit is to be issued within six months.**

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place states that SEQR is required.

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

Mr. Arcarese closed the public hearing.

Ms. Barrett made a motion to grant a Negative Declaration of SEQR. There will not be a hazard to health, safety, or general welfare based on what has been submitted. This proposal will not be detrimental to the flow of traffic. The public health, safety, and general welfare will not be adversely affected. The sign is in harmony with the most recent Comprehensive Plan.

Ms. Sartori seconds the motion.

Motion carries 5 – 0.

Ms. Barrett made a motion to grant a variance of the Town of Perinton Sign Code Section 174-9 (B), to allow a two building mounted signs (61.24 sq. ft. each) , instead of a freestanding sign, subject to the following conditions:

1. Sign is to be illuminated by halo illumination, and the lettering is black.
2. Applicant to obtain a sign permit within 6 months from meeting date. If you do not obtain your sign 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.

There is no other means feasible to the applicant based on the location of the structure on this lot. It is somewhat behind another structure and is somewhat in the corner of the yard. There will not be an undesirable change to the character of the neighborhood. There are a number of other signs in the area for banking institutions. This is consistent with what exists in the area. The sign is nicely done. It is self created, but that does not out-weigh the other factors.

Ms. Sartori seconds the motion.

Motion carries 5 - 0

10. Fix, Spindelman, Brovitz & Goldman, Attorneys at Law, as agent for the Rochester Athletic Club, Inc., as agent for Perinton Hills MA, LLC, owner of property located at 6709 Pittsford Palmyra Road (tax id#166.17-2-32.1), requesting a variance of the Town of Perinton Sign Code Section 174-9 D (1), to allow a tenant sign (RAC) in addition to the existing plaza identification sign instead of an identification sign identifying the name of the plaza only.

Said property being located in a Commercial District.

Jerry Goldman, Esq., presented the application to the Board as per letter of intent as shown below:

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Fix Spindelman Brovitz & Goldman

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23-13

Please Reply to
Jerry A. Goldman, Esq.
Principal
E-mail: jgoldman@fixspin.com
Web Address: www.fixspin.com



295 Woodcliff Drive
Suite 200
Fairport, New York 14450
Telephone: (585) 641-8000
Fax: (585) 641-8080

March 25, 2013

Town of Perinton Planning Board
Town of Perinton Zoning Board of Appeals
1350 Turk Hill Road
Fairport, New York 14450

Re: Application of Rochester Athletic Club, Inc.
Request for Sign Approval and Area Variance
LETTER OF INTENT

Dear Board Members:

This office has been retained by Rochester Athletic Club, Inc. to assist in obtaining municipal approvals for a panel on the free standing sign for Perinton Hills Shopping Center, located on Pittsford-Palmyra Road (Route 31) and Moseley Road (Route 250). The Shopping Center is located in the Commercial District under the Zoning Law of the Town of Perinton. A plan depicting the sign modification is enclosed with this application.

Rochester Athletic Club is a local, well-known provider of fitness services in the local area. The RAC For Women facility at Perinton Hills is a state of the art 17,000 square foot athletic club designed to professionally train women in physical fitness. RAC For Women encompasses approximately 25 percent of the Perinton Hills Shopping Center. At issue is visibility; even though the RAC For Women is the largest tenant within the shopping center, the facility's visibility from either Moseley Road and/or Pittsford-Palmyra Road is virtually non-existent.

Based on the lack of visibility, which is vital to this business operation, we respectfully request sign approval from the Planning Board and the required area variance approval necessary from the Zoning Board of Appeals.

SIGN APPLICATION

The Perinton Town Code requires approval from the Planning Board for any signage under Code Section 174-14(B) and for variance relief from the Zoning Board of Appeals under that same section and Section 174-9(D)(1). This application will go to the Planning Board for initial review and then to the Zoning Board for variance. The overall width of the sign will remain unchanged and the sign as modified, will be 15 feet in height (relatively modest for a shopping center sign).

AREA VARIANCE

In order to place a panel for RAC on the existing free standing sign, a single variance from Code Section 174-9 (D) (1) is requested to allow the addition of the sign panel identifying this key tenant (the Code currently allows the name of the Shopping Center only to be allowed on the sign).

As with all area variances, the primary legal standard is the benefit to the applicant as opposed to any detriment to the health, safety and welfare of the community. In this particular case, the benefit to the applicant is clear. The variance will offer the Rochester Athletic Club the roadside identification that is necessary for this major tenant of this shopping center. No detriment to the health, safety and welfare of the community can be ascertained. In fact, the proposed variance would be a benefit to the health, safety and welfare of the community by providing additional visibility to motorists, thus affording them the opportunity to locate the facility well ahead of time to make crucial and convenient driving decisions and ensure that they arrive safely (especially considering the fact that there is a Shopping Center diagonally across the street named Perinton Square, which is often a source of confusion).

In addition to the general standard, there are several considerations which must be made by the Zoning Board of Appeals in considering area variance applications:

1. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.**

There will be no undesirable change to the character of the surrounding neighborhood or detriment to the nearby properties as a result of the sign variance requested. The overall design of the proposed sign is generally consistent with the commercial intersection of Route 250 and 31. The variance will have no visible impact whatsoever on the neighboring properties, as the neighboring properties are already existing commercial and/or retail establishments.

2. **Whether the benefit to be sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance.**

There is no method feasible for the applicant to pursue other than the area variance. The Rochester Athletic Club has worked hard on the proposed sign modification to keep the design simple and aesthetically pleasing.

3. **Whether the area variance is substantial.**

The requested area variance should not be considered substantial inasmuch as the size of the overall shopping center sign (including the RAC panel) is proportional to other signs and is necessary for proper identification of this key tenant.

4. **Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.**

In that the requested variance seeks nothing more than the modification of the existing shopping center sign, there will be no impact on the physical or environmental conditions of the surrounding neighborhood.

5. **Whether the alleged difficulty was self created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.**

While all area variances have an element of self creation, the variance requested here is logical to the extent that it will allow the minor modification of an existing structure/sign. In addition, by granting the proposed variance, the applicant will gain the roadside visibility that is necessary for this major tenant.

We look forward to presenting these applications at your April 17, 2013 Planning Board meeting and your April 22, 2013 Zoning Board of Appeals meeting. In the interim, should you have any questions or require additional information, please do not hesitate to contact me. Thank you for your consideration.

With Attorney Goldman are Charles & Aaron Mills, & John Shifhauer (RAC). They recently went to the Planning Board, and per that approval, the sign that was submitted to the ZBA has now been modified per the terms of the Planning Board decision of 4/17/13. (see below)

The Planning Board granted sign approval for sign application submitted to the Town on 3/26/2013, subject to the following conditions:

- 1. Applicant to obtain any necessary approvals from the ZBA.**
- 2. Applicant to remove the existing RAC sign at the entrance.**
- 3. Applicant to work with the Town CED office to determine other potential directional signs that may be removed based on safety.**
- 4. This application is specific to this anchor tenant "RAC for women"**
- 5. Applicant to remove the wording "Home of the"**

The existing Perinton Hills signage, while very tasteful, is significantly out of proportion with the other plaza signs in the immediate area. He submits copies into the record of signage in the area - Perinton Square signage, which is approximately 23' in height; the existing Perinton Hills sign is 10' in height. Perinton Professional Park shows a Karate Panel underneath, and additionally, there is a Mobil/Dunkin Donuts sign which did not even come to the Board because the sign pre-existed which allowed the contents of the sign to remain without ZBA relief. RAC is an anchor tenant and is a driver for other tenants within the plaza. Identification for this tenant is critical for the vitality of the plaza and of this particular business. There was a mobile sign that was out for about a week and it increased business for RAC. A number of people do not even know that the existing Perinton Hills signage even exists. This proposed signage change is critical to identify their business.

Charles Mills, owner of Perinton Hills, states that they have been here for over 39 years and have not asked for a variance before for signage. The shopping center is perpendicular to the road and the vast majority of the tenants are not visible from the road, nor is their signage visible from the road. RAC is the big draw that brings people into the plaza. He is not asking to just advertise for a tenant, he is trying to hold a tenant whose lease is coming up for renewal and can't continue with the current level of business they have. They don't have walk in traffic which they need in order to make a profit. Their walk-in traffic is 1/8th of what it is in their other stores. They put out a truck with a sign on it out front by Denny's for a few days and their walk in traffic increased tenfold in just those few days. There were two other fitness centers here in the past that closed because business went bad. RAC is not getting the profit that they want in this location currently. He submits a letter into the record from Lattimore Fairport Physical Therapy that supports this request for the reasons that RAC drives traffic into the plaza. There are a number of women who go to the state of the art laundromat that is in the plaza, then go to RAC, and go back & get their laundry. He thanks the Town of Perinton for their support over the years to help make their plaza what it is today. They are seeking drive by traffic to notice that RAC is in the plaza.

Mr. Goldman states that the sign will be beige (same that currently exists). The paper copy that was submitted shows the color distorted. They will remove the small RAC sign that currently exists in the driveway if this is approved. Route 31 is a highly traveled road at a relatively high rate of speed, and a sign that is more visible to cars will allow them to be able to switch lanes earlier. The sign has merit.

Ms. Barrett thanks for the explanation as it clarified a lot of information for her. She is a member of RAC. She asks if they will continue to use sandwich Boards for specials if this is approved. Mr. Mills states that they will follow code for temporary signage. Ms. Barrett asks when the lease is up for RAC. Mr. Mills states three years. She asks what the terms of the new lease are for, as far as length of time. Mr. Mills states 12 – 15 years.

Ms. Ezell states that she never saw the current sign for the plaza as it is too low and comes too fast on a corner where people should be paying attention to traffic. She is pleased with the height increase proposed. Mr. Mills states that they knew the signage did not do the job, but aesthetically, it looked nice.

Mr. Space asked if it will be lit. Mr. Aaron Mills states that it will be lit. Mr. Space agrees that the sign should be up higher, as people don't see what is there now. What they are proposing will be nice, and he feels it should be lit for safety.

Mr. Place asks if the applicant is ok with the approval being subject to this particular tenant, or this space. If at some point the space got cut in half, it would then change some of the rationale behind the approval. Mr. Goldman states that they don't want to have to come back to the Board for approval; but he can clearly say that it would be an anchor tenant. Mr. Place states it should be the same amount of space. If the space is split up, and it is 5000 sf less, they would then have to come in, as it could change the scenario and rationale that is being provided tonight. Mr. Goldman states that the rationale is that the anchor tenant is the driver for the other tenants.

Mr. Mills states that if RAC leaves, then the RAC sign comes down, and they would probably move the Perinton Hills sign up further. If he ever comes back before this Board again to ask for a tenant to be added to the signage, that tenant would have to have some significance to them.

Mr. Arcarese asks if RAC leaves and the space that they currently lease is split up, then the panel that currently holds RAC would have to come down?

Mr. Place states if another tenant comes in and occupies the same amount of space, then they wouldn't require them to come in again and ask for a variance. Mr. Place states that the sign, if it is approved, should be subject to utilization of this space, which makes it an anchor tenant.

Mr. Mills states that if RAC leaves, then the panel will be removed. If another tenant comes in, and that tenant has significance to the plaza owner, then they will come in and ask for another variance. Mr. Place states that they wouldn't ask them to come back in again and ask for another variance if it is the same space.

Mr. Goldman states that he represents RAC, so it would be up to Mr. Mills. Mr. Mills states that it conforms to what he is telling them. If he means what he says then that is not a bad condition.

Mr. Arcarese states that the Planning Board issued comments as follows:

The Planning Board has approved the requested sign pending the Zoning Board approval.

The Planning Board did approve the application with mixed views (Planning Board Votes were 4 in favor of Approval and 3 in favor of Denial)

The Planning Board Members that recommend approval of the request feel that the request is appropriate because the layout of the Plaza itself is a unique situation. The anchor tenant does not have frontage or exposure on either main road (Route 250 or Route 31) that surrounds the plaza. Other plazas in Town do have the individual tenant exposure from the main roads, unlike the RAC for Women (the anchor tenant). The applicant is attempting to achieve the much needed additional visibility for the plaza itself along with increased anchor tenant visibility. This request would accomplish the needed visibility and will assist in keeping a quality business in its current location in Town. Given the traffic and location at the entrance intersection of the plaza, the requested sign would assist customers in more easily locating the anchor tenant, and improve driving safety. The sign also fits nicely with the plaza architecture and is much more visible than the existing plaza sign.

The Planning Board Members that recommend denial of the request feel that the code clearly states that the name of the plaza only shall be identified on a plaza sign. They feel there is no need for a tenant sign on the plaza sign and the request does not conform to the code. This request would be considered advertising, not identification. They feel the approval of this variance would set precedence and lead to the proliferation of tenant signs being added to plaza signs in this area. In addition, they feel that the RAC for Women can achieve more visibility in other ways by creating a larger building mounted sign and relocating the existing monument sign. They do however feel that a larger plaza sign is needed and is the proper application for better identification of the plaza.

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

Mr. Beck states that CED issued comments as follows:

- 1. The Planning Board approved the sign application on April 17, 2013, with the condition the existing RAC sign located at the entrance be removed, and the words "home of the" be removed from the proposed sign.**

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

Mr. Arcarese asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required on this application.

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

Mr. Space made a motion to grant a Negative Declaration of SEQRA. Granting this variance will not prevent the orderly use of adjacent properties or any adjacent use districts. The public health, safety, and general welfare of the Town will not be adversely affected by granting this variance. This signage will help to aide with traffic safety.

Mr. Arcarese seconds the motion.

Motion carries 5 – 0

There was significant discussion as to whether or not the applicant would have to come back to the Board if RAC ever left as the anchor tenant. Mr. Mills states that this request is only for this specific anchor tenant.

Mr. Space made a motion to grant a variance of the Town of Perinton Sign Code Section 174-9 D (1), to allow a tenant sign (RAC) in addition to the existing plaza identification sign instead of an identification sign identifying the name of the plaza only, for plans received by the Town on 3/26/2013, subject to the following conditions:

1. Applicant to obtain sign permit within 6 months from meeting date. If you do not obtain your sign 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/owner to remove the existing RAC sign at the entrance.
3. Applicant/owner to remove the wording "Home of the"
4. If RAC ever becomes a non-anchor tenant, the applicant/owner is required to come back to the ZBA for any other panel signage. This variance runs specifically to RAC for Women.

The benefit cannot be achieved by any other means feasible; this is the best way to address the concerns of the tenant, the plaza, and the Town. Granting this request will not alter the character of the neighborhood or any nearby property; it will go along with other properties have in effect at the present time for signage. This is not a substantial request; this is a major intersection with a high density traffic volume; the plaza and this tenant needs identification. Granting this request will not adversely affect traffic; it will improve traffic safety in the area, as people will know they are in the correct location.

Mr. Arcarese seconds the motion.

Motion carries 5 – 0

Mr. Mills thanks the Board and staff.

Minutes – 3/25/13

Mr. Arcarese made a motion to approve the minutes of 3/25/13, as amended.

Ms. Barrett seconds the motion.

Motion carries 3 – 0, with abstentions of Mr. Space and Ms. Sartori, due to absence.

There being no further business before the Board, the meeting adjourned at 9:15 PM.

Respectfully Submitted,

Lori L. Stid, Clerk