

**Minutes of the Town of Perinton  
Zoning Board of Appeals  
Meeting of May 18, 2015**

**Zoning Board Members present**

Thomas Young, Chairman  
Sam Space  
Vincent Arcarese  
John N. Moose  
Melissa L. Barrett  
Robin Ward Ezell

**Absent**

Seana Sartori

**Conservation Board Members present**

Chris Fredette

**Town Officials present**

Robert Place, Town Attorney  
John Beck, Zoning Officer  
Lori Stid, Zoning Board Clerk

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 the ZBA received a memo from the DPW and they have no comments on any of the agenda items this evening.

**NEW APPLICATIONS:**

1. Timothy Donovan, owner of property located at 74 St. Andrew Blvd., requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow an accessory building (shed) to be located in the front yard (Nine Mile Point Road) instead of the rear yard.  
Said property being located in a Residential A District.

Mr. Donovan states that he would like to put a shed in his backyard which backs up to Nine Mile Point Road. He has two front yards according to Code. He considers his front yard to be on St. Andrews Blvd.

Ms. Ezell inquired what he needs the shed for. The applicant states that he needs the shed for storage of a lawn tractor, lawn furniture, gardening equipment, snow blower, etc. He wishes to store inside any equipment that is currently outside.

Mr. Young inquired as to color of the shed. The applicant states that it will match the color of his existing home as close as possible.

Ms. Barrett inquired if his neighbors have offered any comments on the request. The applicant states that he has spoken with his neighbors who have no issues. His yard is currently fenced and the shed is inside the fence and will not affect anyone.

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. Beck states that CED issued comments as follows:

**The CED Dept. has no concerns with this application, a building permit to be issued with six months.**

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

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

Mr. Moose made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow an accessory building (shed) to be located in the front yard (Nine Mile Point Road) instead of the rear yard, subject to the following conditions:

1. Applicant to obtain a building 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.
2. Color of accessory building to match the color of his home as closely as possible.
3. Applicant to store equipment inside the shed and not outside.

The applicant is impeded by Code and he has two front yards, and this is obviously his backyard. There is no other way to obtain the benefit being sought. There will not be any undesirable change to the neighborhood or any nearby properties. The request is not substantial as it is on the rear of his property. There will not be any adverse physical or environmental effects.

Mr. Space seconds the motion.

Motion carries 6 – 0.

2. James Davis, owner of property located at 1 Pilgrim Circle, requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-33 D (1), to allow a proposed garage addition to set 46 feet from the front property line instead of 50 feet.
2. Section 208-14 R (2), to allow total garage square footage to be 748 sq. ft. (existing 528 sq. ft. and proposed 220 sq. ft) .instead of 672 sq. ft. - as based on the 1/3 rule.

Said property being located in a Residential C District.

Mr. Davis states that he needs the additional space to store his handicapped accessible van. His previous van was a short wheel based van, and they no longer make them. The new van he has is 5' longer than what will fit into his garage and allow him to get out of the van. He currently has two garage doors and there won't be two separate garage doors; there will be just one 18' garage door.

The Board members feel that this is a good use of a variance and have no questions or comments.

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. Beck states that CED issued comments as follows:

**The CED Dept. has no concerns with this application, a building permit to be issued with six months.**

Mr. Young asked for questions or comments from Attorney Place who states that this is a deminimis request.

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 208-33 D (1), to allow a proposed garage addition to set 46 feet from the front property line instead of 50 feet.
2. Section 208-14 R (2), to allow total garage square footage to be 748 sq. ft. (existing 528 sq. ft. and proposed 220 sq. ft) .instead of 672 sq. ft. - as based on the 1/3 rule, all subject to the following conditions:

1. Applicant to obtain a building 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 his garage extended and he has a legitimate reason for doing so because he needs to be able to store his van. There is no other way to achieve the benefit being sought. It is not an undesirable change to the character of the neighborhood or nearby property. The request is not substantial. There will not be any adverse physical or environmental effects created. It is not self-created as the van he requires is no longer made in the smaller size. This is a good use of obtaining a variance.

Mr. Moose seconds the motion.

Motion carries 6 – 0.

3. David Scheirer, owner of property located at 4427 Carter Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 G, to allow an accessory building to be 240 sq. ft. instead of 200 sq. ft. Said property being located in a Residential 1-2-5 District.

Mr. Scheirer states that he needs the extra storage space to store lawn and garden equipment. The existing shed is too small. They wish to put all of their tools and equipment underneath a shelter.

Mr. Young inquires if the exterior will match the color of the home and the applicant states yes, as closely as possible.

Ms. Ezell states that the existing shed is very well maintained.

Mr. Moose inquired if any of his neighbors have offered any comments. The applicant states that he has spoken with his neighbors who offered no objections.

Messrs. Arcarese & Moose and Ms. Barrett have no questions or concerns.

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. Beck states that CED issued comments as follows:

**The applicant is removing the existing shed, and replacing with a proposed 240 sq. ft. shed.**

**The CED Dept. has no concerns with this application, a building permit to be issued with six months.**

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

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

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

1. Applicant to obtain a building 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.
2. Applicant to remove existing shed.
3. Color of accessory building to match the color of his home as closely as possible.

The request is minor. The benefit cannot be achieved in any other way feasible to the applicant as the applicant requires additional space for storage. This will improve the property. There will not be any undesirable change in neighborhood character or to nearby properties. The request will not have any adverse physical or environmental effects.

Ms. Ezell seconds the motion.

Motion carries 6 – 0.

4. Mallo Home Improvements Inc., as agent for Douglas & Barbara McFarland, owners of property located at 87 Furman Road, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-31 D (1), to allow a front foyer addition to set 63 feet from the front property line instead of 70 feet. Said property being located in a Residential A District.

Doug McFarland states that they would like to mitigate some safety issues they have had with getting out of the house in the winter as that area gets a lot of ice and has become a hazard. They wish to come down a step into a foyer and then a step out and then a step down to grade so it is easing down to make it safer. They have lived here for 40 years and wish to make it safer now for he and his family.

Ms. Ezell inquires if they are doing other improvements and the applicant states yes.

The remaining Board members had no question or comments.

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. Beck states that CED issued comments as follows:

**The CED Dept. has no concerns with this application, a building permit to be issued with six months.**

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

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

Ms. Barrett made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-31 D (1), to allow a front foyer addition to set 63 feet from the front property line instead of 70 feet, subject to the following conditions:

1. Applicant to obtain a building 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.

There is no other way to obtain the benefit in any other way feasible to the applicant. The applicant has explained that this is a safety issue and they wish to remedy that. There will not be any undesirable change to the character of the neighborhood or to nearby properties. This will enhance the property. The request is not substantial. The request will not have any adverse physical or environmental impact, and will improve the property and safety on the property. The difficulty is not self-created; it is a safety issue.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

5. Brent Long, owner of property located at 4 Great Garland Rise, requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 C(2), to allow a 4 foot fence in front of the front setback (High Street Extension) instead of a 3 foot fence. Said property being located in a Residential B District.

Mr. Long states that he is proposing a 4' split rail fence that will match the fence of his next door neighbor to the left. He wishes to keep his children and dog safe. He is impeded by Code in that he has two front yards and High Street Extension is really his backyard.

The Board members feel that this is a thorough application and have no questions or comments.

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. Beck states that CED issued comments as follows:

**The CED Dept. has no concerns with this application, a building permit to be issued with six months.**

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

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

Ms. Ezell made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 C(2), to allow a 4 foot fence in front of the front setback (High Street Extension) instead of a 3 foot fence, subject to the following conditions.

1. Applicant to obtain a building 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.

There is no other way to obtain the benefit being sought, as according to Code there are two front yards and it is apparent that High Street Extension is his backyard. He wishes to add an additional foot for the safety of his children and pets. The neighbor to the left has the same style of split rail fence that he is proposing to match as closely as possible. There will not be an undesirable change to the character of the neighborhood or nearby property. It is not a substantial request; it is only 1 additional foot. High Street Extension is screened from his backyard by shrubbery and trees. There will not be any adverse physical or environmental effects caused by granting this variance as the Conservation Board had no concerns. It is self created, but the benefit obtained is significant.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

Mr. Young states that they will hear the next two applications at the same time.

6. Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting the following variances of the Town of Perinton Zoning Ordinance:

- A. Section 208-27:

1. to allow the side setback for Building A to be 49.2 feet instead of 80 feet,
2. to allow the side setback for Garage A-1 A to be 40.4 feet instead of 80 feet,
3. to allow the side setback for Building B to be 40.1 feet instead of 80 feet,
4. to allow the side setback for Garage B-3 to be 44.9 feet instead of 80 feet,
5. to allow the side setback for Building C to be 48 feet instead of 80 feet.

- B. Section 208-42 H to allow the front landscaping buffer area to be 11 feet instead of 50 feet.

- C. Section 208-42 D to allow the front setback for the existing building to be 79 feet instead of 85 feet.

Said properties being located in an Industrial District & Residential B District.

7. Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 P, to allow the building height for building A to be 57 feet, and the building height for building B to be 50 feet, both instead of 40 feet.

Said properties being located in an Industrial & Residential B District.

John Stapleton, Marathon Engineering, presented the applications to the Board as per his letters of intent and a document and map that he submits into the record which more clearly shows the variances being requested as shown below. With him is Jim Taylor, the owner of the properties.

3-15



39 Cascade Drive / Rochester, NY 14614 / Phone (585) 458-7770

February 23, 2015

Thomas Young, Chairman  
Zoning Board of Appeals  
Town of Perinton  
1350 Turk Hill Rd  
Fairport NY 14450



Re: Whitney Town Center  
0 & 666 Whitney Road  
Town of Perinton

Dear Thomas,

On behalf of our client, Whitney Town Center, LLC, we are submitting this application to the Town of Perinton Zoning Board of Appeals ("ZBA") for seven area variances (the "Variances") for the above-referenced project. We respectfully request that the application for approval of these Variances be placed on the agenda for the ZBA meeting on March 23, 2015.

**WHITNEY TOWN CENTER**

This project is located on the north side of Whitney Road approximately 425 feet east of O'Connor Road. The project site consists of 2 parcels:

- #666 Whitney Road (former RTC building)      3.60 acres
  - #0 Whitney Road (northern portion)      14.73 acres
- Total      18.33 acres

These 2 parcels are presently zoned Industrial. On July 9, 2014, the Town Board of Perinton granted a Special Use Permit to apply "Public Buildings & Grounds" as an overlay zoning district for the residential portion of the project.

It should be noted that the Town of Perinton is presently in the process of rezoning the northern 5.6 acres from Industrial zoning to Residential B. The Town is also considering the creation of a Mixed Use overlay district for the overall property.

The Town Board, during the Special Use Permit consideration, declared itself as lead agent and made a SEQR Determination of no significant impacts. Therefore, since the plan is reasonably similar to the concept plan discussed, that SEQR determination is valid for approval of the requested variances.

The existing 28,500 sf building in the front (southern portion) of the site will be rehabilitated into a retail/office building with parking for 179 cars. The three residential buildings will consist of:

A	65 units	64 surface spaces	15 garage spaces
B	58 units	59 surface spaces	34 garage spaces
C	<u>28 units</u>	<u>28 surface spaces</u>	<u>30 garage spaces</u>
TOTAL	151 units	151 surface spaces	79 garage spaces

Buildings A & B are 3-story buildings as defined by the NYS Building Code with partial basement walk out units facing the natural wetlands. Building C is a 2-story building consisting of 2 bedroom units. Buildings A & B are a mixture of 1 & 2 bedroom units. These buildings have been designed with traditional design features on the exterior elevations to complement the adjacent residential homes.

Currently, an application for Preliminary/Final Site Plan Approval for this project is pending before the Planning Board, and is scheduled to be heard on March 18<sup>th</sup>.

**REQUESTED VARIANCES**

Seven area Variances are requested:

- 1) Side setback of 49.2 feet versus the required 80.0 feet for Residential Building A.
- 2) Side setback of 40.4 feet versus the required 80.0 feet for Garage A-1.
- 3) Side setback of 40.1 feet versus the required 80.0 feet for Residential Building B.
- 4) Side setback of 44.9 feet versus the required 80.0 feet for Garage B-3.
- 5) Side setback of 48.0 feet versus the required 80.0 feet for Residential Building C.
- 6) Front landscaping depth of 11.0 feet versus the required 50.0 feet for the Commercial Building.
- 7) Front setback of 79.0 feet versus the required 85.0 feet for the Commercial Building. Note this is an existing non-conforming condition.

**THE VARIANCE STANDARD**

The Variances will allow Whitney Town Center, a vibrant community for healthy seniors (55 years of age & older) that includes amenities in the retail/office building to be constructed. The benefit to the applicant if the Variances are granted outweigh any “detriment to the health, safety and welfare of the neighborhood or community by such grant,” and thus meet the standard for granting an area variance

under New York State Town Law §267-b(3). Consideration of the factors set forth in Town Law §267-b(3) yields the conclusion that the Variances should be granted:

1. Neighborhood Character or Nearby Properties – There will be no undesirable change in the neighborhood character or detriment to nearby properties. Our vision for this project is to create a vibrant community for healthy seniors (55 years of age & older) that includes amenities in the retail/office building. The site will be attractively landscaped and sidewalks/meandering trails will provide passive recreation opportunities. A gazebo, as well as an outdoor pavilion, will provide gathering and social areas. Garage options are a welcome amenity in this region.

The project site will have exterior lighting along the roadways, parking areas and some of the walkways. The proposed lights are attractive poles/fixtures and have been arranged so that there is no light spillage off the subject property.

2. Alternative Method – There are no other feasible solutions that would not require variances. Alternative layouts of the site are constrained by the presence of wetlands; the proposed layout minimizes the number of variances yet results in a cohesive/integrated project layout that creates a sense of community. Over the past 6 years, a number of different projects and layouts have been discussed with the Town. Although some of these alternatives were an allowed use under the current zoning and would not have required as many variances, the Town was not receptive to an Industrial use adjacent to a residential area. This layout results in residential units being adjacent to the existing residential area, while providing retail services to serve the greater community.
3. Substantial – The requested reduction in side setbacks still provides adequate separation between the buildings, and therefore should not be viewed as substantial. The reduction in the front landscaping buffer may be quantitatively substantial; however, it is not substantial qualitatively, as the proposed landscaping is adequate for the retail storefront. This attractive storefront faces Whitney road, a heavily traveled roadway, with safe and convenient access and parking for customers.
4. Physical or Environmental Conditions – The project will not have any adverse impacts on the environment or the physical surroundings, since it is consistent with the existing area – a mix of commercial and residential. There are environmentally sensitive areas on the site. These are classified as Federal Wetlands and Town of Perinton Limited Development Districts (LDD). The total wetland disturbance is lower than the limit requiring mitigation. As stated previously, the site will be attractively landscaped and sidewalks/meandering trails will be provided.
5. Self-Created Difficulty – The situation may be considered self-created. However, given the site, existing zoning, the configuration of the buildings, input from Town staff, the Planning Board, and

the Town Board, the resultant site design was not feasible without some deficiencies from zoning code requirements.

Thus, the benefits of granting the requested Variances clearly outweigh any possible detriments. We believe Whitney Town Center will be a positive and welcome addition to the Perinton landscape, and provide additional housing options for residents.

Enclosed is the following documentation in support of the Variance application:

- 12 copies of this Letter of Intent
- 12 copies of the Zoning Board Area Variance Application
- 12 copies of the Overall and Layout Plans (full size)
- 12 copies of the proposed building elevations (11x17).
- 1 copy of the Authorization to Make Application form
- A check in the amount of \$100.00 for the application fee.

Note: No EAF is being submitted as SEQR was previously determined

We look forward to discussing this project with the Zoning Board of Appeals on March 23<sup>rd</sup>. In the meantime, if you have any questions, or require additional information, please do not hesitate to contact our office.

Respectfully submitted,



John Stapleton  
Marathon Engineering

cc: Jim Taylor – Whitney Town Center, LLC  
Karl Schuler – Whitney Town Center, LLC  
Andrew Woodhouse – Lauer – Manguso & Associates, Architects

19-15



39 Cascade Drive / Rochester, NY 14614 / Phone (585) 458-7770



April 23, 2015

Thomas Young, Chairman  
Zoning Board of Appeals  
Town of Perinton  
1350 Turk Hill Rd  
Fairport NY 14450

Re: Whitney Town Center  
0 & 666 Whitney Road  
Town of Perinton

Dear Thomas,

On behalf of our client, Whitney Town Center, LLC, we are submitting this application to the Town of Perinton Zoning Board of Appeals ("ZBA") for two additional area variances (the "Variances") for the above-referenced project. We respectfully request that the application for approval of these Variances be placed on the agenda for the ZBA meeting on May 18, 2015.

**WHITNEY TOWN CENTER**

This project is located on the north side of Whitney Road approximately 425 feet east of O'Connor Road. The project site consists of 2 parcels:

- #666 Whitney Road (former RTC building)      3.60 acres
  - #0 Whitney Road (northern portion)      14.73 acres
- Total      18.33 acres

These 2 parcels are presently zoned Industrial. On July 9, 2014, the Town Board of Perinton granted a Special Use Permit to apply "Public Buildings & Grounds" as an overlay zoning district for the residential portion of the project.

It should be noted that the Town of Perinton has rezoned the northern 5.6 acres from Industrial zoning to Residential B. The Town is also considering the creation of a Mixed Use overlay district for the overall property.

The Town Board, during the Special Use Permit consideration, declared itself as lead agent and made a SEQR Determination of no significant impacts. Therefore, since the plan is reasonably similar to the concept plan discussed, that SEQR determination is valid for approval of the requested variances.

The existing 28,500 sf building in the front (southern portion) of the site will be rehabilitated into a retail/office building with parking for 179 cars. The three residential buildings will consist of:

A	65 units	64 surface spaces	15 garage spaces
B	58 units	59 surface spaces	34 garage spaces
C	<u>28 units</u>	<u>28 surface spaces</u>	<u>30 garage spaces</u>
TOTAL	151 units	151 surface spaces	79 garage spaces

Buildings A & B are 3-story buildings as defined by the NYS Building Code and Town of Perinton Zoning Code, with partial basement walk out units facing the natural wetlands. Building C is a 2-story building consisting of 2 bedroom units. Buildings A & B are a mixture of 1 & 2 bedroom units. These buildings have been designed with traditional design features on the exterior elevations to complement the adjacent residential homes.

Currently, an application for Preliminary/Final Site Plan Approval for this project is pending before the Planning Board, and is anticipated to be heard on May 6<sup>th</sup>.

**REQUESTED VARIANCES**

Two additional Area Variances are requested:

- 1) Building heights of ~~50.0~~ <sup>57</sup> feet for Residential Buildings A versus the maximum 40.0 feet building height.
- 2) Building heights of 50.0 feet for Residential Buildings B versus the maximum 40.0 feet building height.

**THE VARIANCE STANDARD**

The Variances will allow Whitney Town Center, a vibrant community for healthy seniors (55 years of age & older) that includes amenities in the retail/office building to be constructed. The benefit to the applicant if the Variances are granted outweigh any “detriment to the health, safety and welfare of the neighborhood or community by such grant,” and thus meet the standard for granting an area variance under New York State Town Law §267-b(3). Consideration of the factors set forth in Town Law §267-b(3) yields the conclusion that the Variances should be granted:

1. Neighborhood Character or Nearby Properties – There will be no undesirable change in the neighborhood character or detriment to nearby properties. Our vision for this project is to create a vibrant community for healthy seniors (55 years of age & older) that includes amenities in the retail/office building. The site will be attractively landscaped and sidewalks/meandering trails will provide passive recreation opportunities. A gazebo, as well as an outdoor pavilion, will provide

gathering and social areas. Garage options are a welcome amenity in this region.

The project site will have exterior lighting along the roadways, parking areas and some of the walkways. The proposed lights are attractive poles/fixtures and have been arranged so that there is no light spillage off the subject property. Buildings A & B that require variances are approximately 6 feet lower than Whitney Road and are setback approximately 600 feet. Existing vegetation as well as the sheer distance from neighboring residents will negate any impact.

2. Alternative Method – There are no other feasible solutions that would not require variances. Alternative layouts of the site are constrained by the presence of wetlands; the proposed layout minimizes the number of variances yet results in a cohesive/integrated project layout that creates a sense of community. Over the past 6 years, a number of different projects and layouts have been discussed with the Town. Although some of these alternatives were an allowed use under the current zoning and would not have required as many variances, the Town was not receptive to an Industrial use adjacent to a residential area. This layout results in residential units being adjacent to the existing residential area, while providing retail services to serve the greater community. As a result of discussions with the Town, Building C was reduced to 2-stories to reduce the impact to the neighbors. Units from Building C were redistributed to Buildings A and B.
3. Substantial – The requested reduction in side setbacks still provides adequate separation between the buildings, and therefore should not be viewed as substantial. The reduction in the front landscaping buffer may be quantitatively substantial; however, it is not substantial qualitatively, as the proposed landscaping is adequate for the retail storefront. This attractive storefront faces Whitney road, a heavily traveled roadway, with safe and convenient access and parking for customers.

The residential buildings A and B appear as 3-story buildings when viewed from Whitney Road (a distance of approximately 600 feet) as shown on the enclosed Cross-Section drawing. The height variance is necessary due to the height of the rear of the building, which has a walk-out entrance due to the lower surrounding grade on that façade.

The design of the buildings, aesthetically pleasing with building mounted lights, the distance from Whitney Road, the distance from the neighbors, the existing vegetation, and the proposed landscaping, result in a finished condition that provides a benefit to the community. Therefore, the variances requested should not be deemed substantial.

4. Physical or Environmental Conditions – The project will not have any adverse impacts on the environment or the physical surroundings, since it is consistent with the existing area – a mix of commercial and residential. There are environmentally sensitive areas on the site. These are

classified as Federal Wetlands and Town of Perinton Limited Development Districts (LDD). The total wetland disturbance is lower than the limit requiring mitigation. As stated previously, the site will be attractively landscaped and sidewalks/meandering trails will be provided.

5. Self-Created Difficulty – The situation may be considered self-created. However, given the site, existing zoning, the configuration of the buildings, input from Town staff, the Planning Board, and the Town Board, the resultant site design was not feasible without some deficiencies from zoning code requirements.

Thus, the benefits of granting the requested Variances clearly outweigh any possible detriments. We believe Whitney Town Center will be a positive and welcome addition to the Perinton landscape, and provide additional housing options for residents.

Enclosed is the following documentation in support of the Variance application:

- 12 copies of this Letter of Intent
- 12 copies of the Zoning Board Area Variance Application
- 12 copies of the Overall and Layout Plans (11x17)
- 12 copies of the proposed building elevations (11x17)
- 12 copies of a Cross-Section showing Residential Building B as seen from Whitney Rd (11x17)
- 1 copy of the Authorization to Make Application form
- A check in the amount of \$100.00 for the application fee

Note: No EAF is being submitted as SEQR was previously determined.

We look forward to discussing this project with the Zoning Board of Appeals on May 18<sup>th</sup>. In the meantime, if you have any questions, or require additional information, please do not hesitate to contact our office.

Respectfully submitted,



John Stapleton  
Marathon Engineering

cc: Jim Taylor – Whitney Town Center, LLC  
Karl Schuler – Whitney Town Center, LLC  
Andrew Woodhouse – Lauer – Manguso & Associates, Architects



39 Cascade Drive / Rochester, NY 14614 / Phone (585) 458-7770

recorded  
5-18-15

**Nine variances**

- 1) Side setback of 49.2 feet versus the required 80.0 feet for Residential Building A.
- 2) Side setback of 40.4 feet versus the required 80.0 feet for Garage A-1.
- 3) Side setback of 40.1 feet versus the required 80.0 feet for Residential Building B.
- 4) Side setback of 44.9 feet versus the required 80.0 feet for Garage B-3.
- 5) Side setback of 48.0 feet versus the required 80.0 feet for Residential Building C.
- 6) Front landscaping depth of 11.0 feet versus the required 50.0 feet for the Commercial Building.
- 7) Front setback of 79.0 feet versus the required 85.0 feet for the Commercial Building. Note this is an existing non-conforming condition.

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- 8) Building heights of 57.0 feet for Residential Buildings A versus the maximum 40.0 feet building height.
  - 9) Building heights of 50.0 feet for Residential Buildings B versus the maximum 40.0 feet building height.



Mr. Stapleton states that on 2/25/15, the Town Board granted a request for rezoning of 5.655 acres of land at Whitney Town Center located at 666 Whitney Road West from Industrial to Residential B.

Mr. Stapleton states that on 5/6/15, the Planning Board granted preliminary and final site plan approval for this project, with one of the conditions of approval to obtain any necessary variances.

Mr. Young states that the application was very thorough as well as the presentation this evening, and he has no questions or comments. He has been following this project with the minutes from the Town Board and Planning Board. He supports the requests.

Ms. Ezell appreciates the handout tonight as it really shows clearly what the requests are for. She supports the requests.

Ms. Barrett feels it is a very thorough application and she supports the requests. Ms. Barrett inquires if there are handicapped parking spots. Mr. Stapleton says yes. They have more than what the Town Code requires because they are offering garages for each of the units.

Mr. Moose supports the requests. He has been following the Planning Board minutes and feels this will be a good project. He inquires if the 57' is at the roof line or a cupola. Mr. Stapleton states that it is the roof line. The cupolas are not included in the measurement of the height of the roof. The buildings are at grade on the southern exposure and on the northern exposure there are lower level walkouts that look out to the wetland. It is 3 stories with a lower level walkout and that is where they exceed the code. Mr. Place states that there is a grade difference from Whitney Road. Mr. Stapleton states that the two buildings are about 6' lower. The grade in front of the buildings is about 6' lower than the elevation of Whitney Road. They provided a cross section in the application. It is about 600' off of the road.

Mr. Arcarese supports the variances requested. The application was very thorough and this will be a big improvement to the area. He has been following along with this project with the Planning Board minutes also.

Mr. Space inquires about how long it will take to build this out. Mr. Taylor feels it will take approximately 16 months from when they are able to start construction. Mr. Space inquires how long the old telephone building has been vacant. Mr. Taylor states since 1999.

Mr. Young states that the ZBA received comments from the Planning Board on 5/15/15 as follows:

Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting the following variances of the Town of Perinton Zoning Ordinance:

A. Section 208-27:

1. to allow the side setback for Building A to be 49.2 feet instead of 80 feet,
2. to allow the side setback for Garage A-1 A to be 40.4 feet instead of 80 feet,
3. to allow the side setback for Building B to be 40.1 feet instead of 80 feet,
4. to allow the side setback for Garage B-3 to be 44.9 feet instead of 80 feet,
5. to allow the side setback for Building C to be 48 feet instead of 80 feet.

**PB: The Planning Board supports all of the side setback variance requests. The plans as approved recently by the Board are consistent with the Special Use Permit approved by the Town Board. Most adjoining neighbors' residences have large lots and will not be adversely impacted by the reduced setbacks. Two residences which are closer have been addressed with significant landscaping to minimize visual impacts.**

B. Section 208-42 H to allow the front landscaping buffer area to be 11 feet instead of 50 feet.

**PB: The use for the front and east side of the commercial building are planned as retail which requires adequate parking to meet tenant requirements. The applicant has reduced the number of parking spots by four in order break up the parking massing and used the area to create a landscaped buffer. Additional parking in the area of the proposed pocket park was discussed but the Board did not want to diminish the benefits of the park and the parking would not be close enough to the retail tenants. The Planning Board supports this approach and mitigation.**

C. Section 208-42 D to allow the front setback for the existing building to be 79 feet instead of 85 feet.

**PB: The Board supports the request as it is a preexisting condition.**

Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 P, to allow the building height for building A to be 57 feet, and the building height for building B to be 50 feet, both instead of 40 feet.

**PB: The Planning Board supports the height variances as the buildings locations are approximately eight feet lower than the elevation at the road which will reduce the visual impact from the street and the buildings are located significantly apart from adjoining neighbors. The applicant has also revised the**

**elevations to break up massing, planned a distinct base / middle / top for architectural interest, and has enhanced the colors and materials of the buildings.**

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

Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting the following variances of the Town of Perinton Zoning Ordinance:

A. Section 208-27:

1. to allow the side setback for Building A to be 49.2 feet instead of 80 feet,
2. to allow the side setback for Garage A-1 A to be 40.4 feet instead of 80 feet,
3. to allow the side setback for Building B to be 40.1 feet instead of 80 feet,
4. to allow the side setback for Garage B-3 to be 44.9 feet instead of 80 feet,
5. to allow the side setback for Building C to be 48 feet instead of 80 feet.

B. Section 208-42 H to allow the front landscaping buffer area to be 11 feet instead of 50 feet.

C. Section 208-42 D to allow the front setback for the existing building to be 79 feet instead of 85 feet.

**This applicant has appeared before our Board many times. The PCB recommends granting the variances, specifically:**

**(A) PCB recommends: would provide parity with existing residential zoned properties to the North.**

**(B) The PCB supports this variance. It will allow for sustained support of envisioned retail activity and will allow for a unique “pocket park” that the PCB strongly supports.**

**(C) The PCB supports this variance: reuse of an existing building long vacant.**

Marathon Engineering as agent for Whitney Town Center, LLC, owner of properties located at 666 Whitney Road (tax id # 157.07-1-21 – approximately 3.6 acres) and vacant land (northern portion - tax id# 157.07-1-20 – approximately 14.73 acres), requesting a variance of the Town of Perinton Zoning Ordinance Section 208-14 P, to allow the building height for building A to be 57 feet, and the building height for building B to be 50 feet, both instead of 40 feet.

**The PCB supports this variance.**

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows for all of the variance requests associated with this project:

**The Town Board granted a Special Use Permit for this project on July 9, 2014.**

**The Planning Board granted Final Site Plan approval on May 6, 2015.**

**The CED Dept feels this project will vastly improve a property and structure that has been vacant for several years, which will enhance the surrounding properties. The CED Dept does not feel the requested variances will have any negative visual effect on the adjacent properties; therefore, the CED Dept. supports this application and recommends approval.**

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that this was a coordinated SEQR review and the Town Board has already granted a Negative Declaration of SEQR, so SEQR does not need to be revisited.

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

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

A. Section 208-27:

1. to allow the side setback for Building A to be 49.2 feet instead of 80 feet,
2. to allow the side setback for Garage A-1 A to be 40.4 feet instead of 80 feet,
3. to allow the side setback for Building B to be 40.1 feet instead of 80 feet,
4. to allow the side setback for Garage B-3 to be 44.9 feet instead of 80 feet,
5. to allow the side setback for Building C to be 48 feet instead of 80 feet.

B. Section 208-42 H to allow the front landscaping buffer area to be 11 feet instead of 50 feet.

C. Section 208-42 D to allow the front setback for the existing building to be 79 feet instead of 85 feet.

The findings of fact are adopted from the rationale of the Planning Board memo to the ZBA sent on 5/15/15 and the rationale of the letter of intent received by the Town on 2/23/15, both of which are a part of the record.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

Mr. Space made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-14 P, to allow the building height for building A to be 57 feet, and the building height for building B to be 50 feet, both instead of 40 feet.

The findings of fact are adopted from the rationale of the Planning Board memo to the ZBA sent on 5/15/15 and the rationale of the letter of intent received by the Town on 4/24/15, both of which are a part of the record.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

**Discussion:**

**Minutes – 4/27/15**

Mr. Young made a motion to approve the minutes of 4/27/15 as submitted.

Mr. Moose seconds the motion.

Motion carries 6 – 0.

Ms. Fredette states that there is a boy scout in the audience and Ms. Fredette inquires if he may introduce himself to the Board and staff members. Sean Leccarde, Troop 312 – Penfield, states that he is currently trying to obtain his merit badge for communications. The Board members welcome him to the meeting.

There being no further business before the Board, the meeting adjourned at 8:15 PM.

Respectfully Submitted,

Lori L. Stid, Clerk