



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

PENFIELD ZONING BOARD OF APPEALS

August 20, 2020

Amy Bast, 1181 Bay Road, Webster, NY, 14580 requests Area Variances under Section 250-14.3 of the Code to allow an addition with less front and side setback than required under Section 250-5.6-D (3) of the Code and less buffer than required under Section 250-7.2-A of the Code at 1181 Bay Road. The property is owned by Amy Bast and is zoned LB. SBL #093.11-1-45. Application #20Z-0024.

WHEREAS, an application has been received by the Penfield Zoning Board of Appeals requesting Area Variances under Section 250-14.3 of the Code to allow an addition with less front and side setback than required under Section 250-5.6-D (3) of the Code and less buffer than required under Section 250-7.2-A of the Code at 1181 Bay Road; and

WHEREAS, the Penfield Zoning Board of Appeals held a public hearing at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York on October 17, 2019 immediately following a work session meeting commencing at 6:30 PM to consider the said application and hear all persons in favor of or opposed to the application; and

NOW, THEREFORE BE IT RESOLVED, that the Penfield Zoning Board of Appeals acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA), has classified this application as a Type II action, requiring no further environmental review.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Penfield Zoning Board of Appeals hereby APPROVES the applicant's request for Area Variances under Section 250-14.3 of the Code to allow an addition with less front and side setback than required under Section 250-5.6-D (3) of the Code and less buffer than required under Section 250-7.2-A of the Code at 1181 Bay Road, subject to the following conditions:

1. The applicant is permitted to construct a 19' x 19' (361 sq. ft.) addition to the rear, northwest corner of the building containing the beauty salon business as represented in the plans submitted with the application.
2. The addition is approved to be constructed with the following area variances:
 - a) A variance of 28' from the minimum front setback requirement of 80' resulting in a setback of 52' from the front property line.
 - b) A variance of 8.29' from the minimum side setback requirement of 20' resulting in a setback of 11.71' from the north side property line.

- c) A variance of 38.29' from the minimum buffer requirement of 50' resulting in a buffer of 11.71' from the residential district line to the north.
3. The applicant shall obtain a building permit for the construction of the addition from the Penfield Building and Zoning Department and pay the appropriate fee.
4. The applicant shall, upon completion of the construction of the addition, obtain a Certificate of Compliance from the Penfield Building and Zoning Department prior to the use and occupancy of the addition.
5. The applicant shall comply with the applicable requirements of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code, the Penfield Town Code and any other applicable County, State or Federal requirements.

The Board considered the following five (5) standards in applying the balancing test, which weighs the benefit to the applicant to the detriment to the health, safety and welfare of the neighborhood or community and bases its decision on the following findings as to each of the five (5) standards:

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 variances.

The Board determined that no undesirable change would be produced in the character of the neighborhood and no detriment to nearby properties would be created by the granting of the requested area variances as no proof or evidence of any such undesirable change or detriment was provided. The Board determined that the proposed addition will not negatively impact visibility or traffic safety as it will be located on the rear of the existing building. The applicant represented that the property to the north of her business is a residential rental property and the property to the south is being used for commercial purposes. The applicant represented that she has a good relationship with her neighbors and neither are opposed to her plans for the addition. The applicant also represented that she currently has adequate parking to suit her needs and that the proposed addition will not result in a reduction of total on-site parking spaces. The Board also considered the fact that the addition will not encroach further into the setback or buffer variances approved for the existing building by this Board in 2006. The property is located within a Limited Business district adjacent to several other existing commercial and residential uses. The Board determined that the current use of the property as a beauty salon, along with the proposed addition, fit in well with the purpose of the Limited Business district, which is to provide convenience, small-scale retail service, and business uses in strategic locations to support the Town's residential population base and act as buffers between the larger and more intense general business center and residential areas. The Board determined that the requested variances for the addition are appropriate and reasonable and will meet the applicant's needs for additional storage without negatively impacting surrounding properties.

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

The Board determined that the benefit sought by the applicant could not be achieved by some other feasible method as the applicant represented that the current restrictions relating to the Covid-19 pandemic have forced her to reduce the number of staff and customers and to reconfigure her business space. This reduction and reconfiguration has resulted in a need for additional storage space for furniture and equipment that the addition will provide. As the building itself does not meet the minimum setback or buffer requirements, it would not be possible to construct the addition without the requested variances.

3. Whether the requested area variances are substantial.

The Board determined that the requested variances could be considered technically substantial as the applicant is requesting a variance of 28' from the minimum front setback requirement of 80' resulting in a setback of 52' from the front property line, a variance of 8.29' from the minimum side setback requirement of 20' resulting in a setback of 11.71' from the north side property line and a variance of 38.29' from the minimum buffer requirement of 50' resulting in a buffer of 11.71' from the residential district line to the north. However, the variances are not visually substantial as the existing building itself does not meet the minimum setback or buffering requirements. The Board previously approved variances for the existing building setbacks and buffer and the proposed addition will not further encroach upon either of these.

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

The Board determined that the proposed area variances will not have an adverse impact on the physical or environmental conditions in the neighborhood or district as no proof or indication of any such adverse effects was provided. The applicant demonstrated that the proposed addition will not result in any significant change in the amount of impervious surface area or reduce the total number of parking spaces.

5. Whether the alleged difficulty was self-created.

The Board determined that the alleged difficulty was self-created as the applicant is aware of the existing property conditions and variances needed for the construction of the addition. However, the Board determined that the variances are reasonable and appropriate in consideration of the other factors.

The Board's decision was based upon the following information:

1. A Zoning Board of Appeals application form dated July 13, 2020.

2. A Short Environmental Assessment Form dated July 13, 2020.
3. Construction plans of the proposed addition stamped received July 15, 2020.
4. An instrument survey map of the subject property prepared by Robert M. Dunn dated October, 12, 2006.
5. A drawing entitled "Sketch Showing Proposed Parking Improvement 1181 Bay Road" prepared by Edwin A. Summerhays dated August 21, 2006.
6. An instrument survey map of the subject property prepared by William B. Gillette stamped received July 15, 2020.
7. A letter of intent provided by the applicant dated July 16, 2020.
8. A Monroe County Development Referral Form dated July 30, 2020.
9. Penfield Zoning Board of Appeals resolution for application #06Z-0035 dated September 21, 2006.
10. An aerial photo of the subject property
11. Testimony provided by the applicant and concerned residents at the public hearing.

Motion to approve the application for Area Variances to allow an addition with less front and side setback than required and less buffer than required at 1181 Bay Road.

Moved: Daniel DeLaus
 Seconded: Matthew Piston

Vote of the Board:

Daniel DeLaus	AYE
Michael Belgiorno	AYE
Marie Cinti	AYE
Matthew Piston	AYE
Andris Silins	AYE

The motion was carried.

FILED
 PENFIELD, NY
 2021 AUG -9 PM 4:39
 TOWN CLERK



TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

Zoning Board Meeting date 8-20-2020

Zoning Board # 202-0024

Enclosed is the Resolution from your Zoning Board of Appeals application and subsequent decision.

Please keep the Resolution on file with your business/home records.

A copy has been sent to N/A



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Town of Penfield

Town of Planned Progress

Andy Suveges

Building/Code Compliance Inspector

suveges@penfield.org

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3100 Atlantic Avenue

Penfield, New York

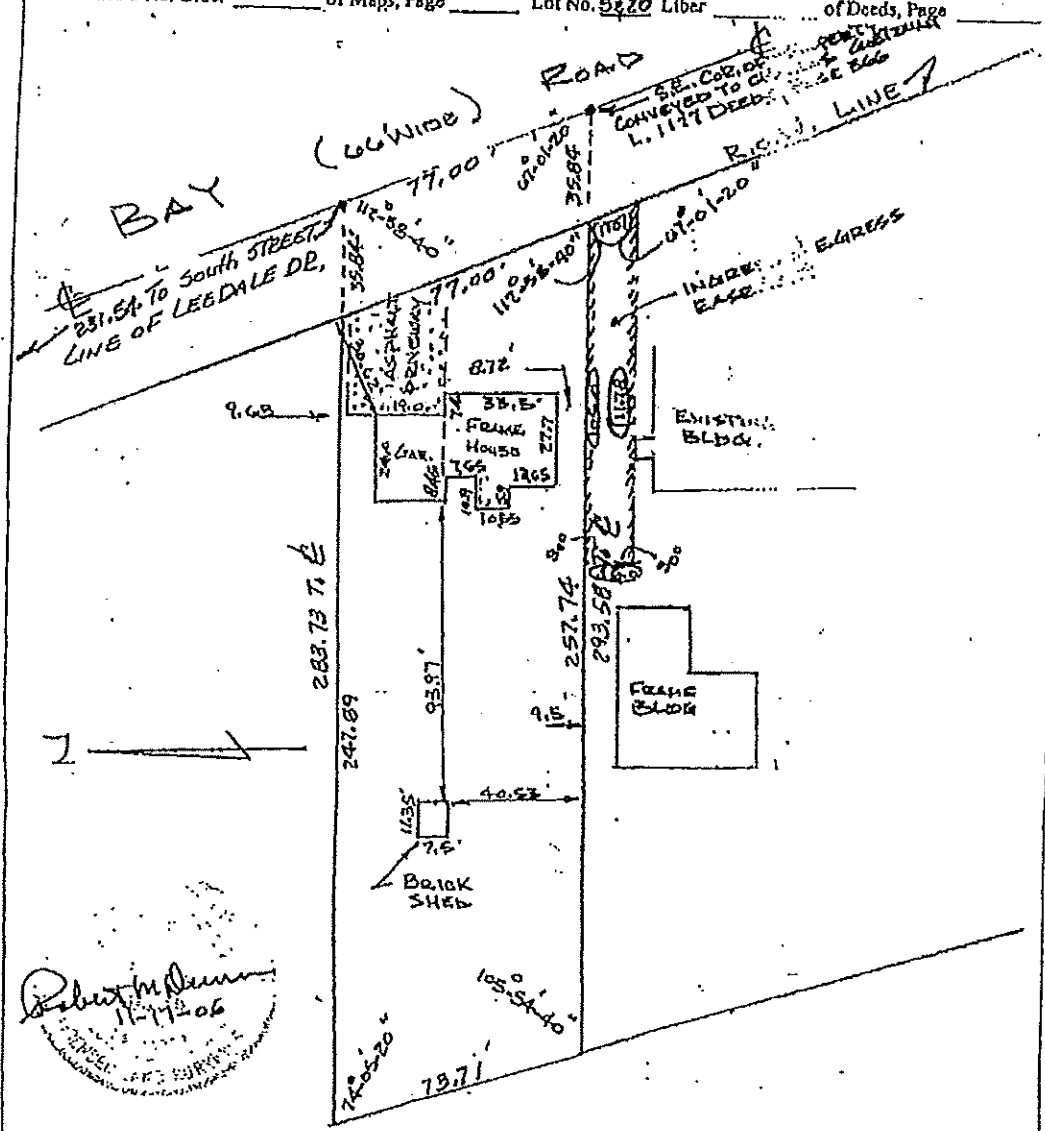
14526-9798

LAKESIDE ENGINEERING, PC
333 Andrews Street
Rochester, New York 14604
585.270.9300 Office
585.270.9301 Fax

INSTRUMENT SURVEY MAP

ROBERT M. DUNN
Professional Land Surveyor
NYS Lic. No. 045873
585.303.5827 Cell

For S. POLITO Parcel of TOWN OF BENEDICT Co. of MONROE
Street 1181 BAY ROAD Subdivision TOWNSHIP 14 RANG 7
Reference Data: Liber _____ of Maps, Page _____ Lot No. 5220 Liber _____ of Deeds, Page _____



Robert M. Dunn
11/12/06
Professional Land Surveyor
NYS Lic. No. 045873

Scale: 1"=40'
Certification: I hereby certify that this survey was prepared in accordance with existing Code of Practice for Land Surveyors accepted by the New York State Association of Professional Land Surveyors, and that the same are true and correct to the best of my knowledge and belief, and that I am a duly Licensed Professional Land Surveyor in the State of New York. This certification is not transferable to additional instruments or subsequent owners. Only copies from the original of this survey made with an original of the land surveyor's filed seal or his embossed seal shall be considered to be true copies. Unauthorized alteration or addition to a survey map bearing a license holder surveyor's seal is a violation of section 7201 subdivision 2, of the New York State Education Law.

STATE OF NEW YORK
ROBERT M. DUNN
LICENSED LAND SURVEYOR
19873

CNB MORTGAGE COMPANY ITS SUCCESSORS AND ASSIGNS
LINDERBERG & KEELER
THE TITLE INSURANCE COMPANY INSURING THE MORTGAGE
SAMUEL H. CARUSO, ESQ.
AND AMY BAST

Dated: 10-12-06 Signed: Robert M. Dunn