

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
April 25, 2016 Meeting

Members:

Wolfgang Buechler, Chairman
Lee Daigler
James Schlemmer
James G. Meholick, Secretary
Dennis Welka

The ZBA open regular meeting was called to order by Mr. Wolfgang Buechler at 7:00 PM. Mr. Buechler, Mr. Daigler, Mr. Welka, and Mr. Schlemmer were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

Charles Dimaria
4188 Tonawanda Creek Rd.
N Tonawanda, NY 14120

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton. Owner wishes to construct a 36 ft. x 44 ft. (1584 sq. ft.) accessory structure, where 600 sq. ft. maximum is allowed, at a building height of 18 feet where 16 feet is allowed per Town Code §247-34.E.(1), & F.(2).(d), and a side yard setback of 10 ft. where minimum required is 15 ft. per Town Code §247-34.F.(2)(b). Area variances sought are 984 sq. ft. of accessory structure size, 5 ft. side yard setback and 2 feet on building height. Property is 1.6 acres and zoned R1 Low-density Residential.

Mr. Dimaria was joined by Chris Szewczyk. They presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the location of the proposed accessory structure. There is also an existing 10 ft. x 12 ft. shed on the property that Mr. Dimaria did not want to remove. The existing shed added 120 sq. ft. to the variance, so the new variance sought is 1104 sq. ft.

A letter from Edward Arida at 4194 Tonawanda Creek was submitted to show that Mr. Arida did not have any issues with the new accessory structure.

Mr. Dimaria supplied a floor plan sketch showing what he going to store in the new shed, which included 2 boats, 2 kayaks, 2 trailers, 2 vehicles, 2 lawnmowers, snow blower, 4 wheeler and assorted tools.

The formal public hearing was closed at approximately 7:23 PM.

Kevin Bush
318 Locust St.
Lockport, NY 14094
Property location: 6797 Campbell Blvd

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton. Owner wishes to build a 100 ft. x 85 ft. pond with a side setback of 20 ft. on each side of property where minimum required is 100 ft. per Town Code §247-46.A.(1) Area variance sought is 80 ft. side yard setback variance per side. Property is 1.9 acres and zoned R1 Low-density Residential.

Mr. Bush presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the size and location of the Pond. Mr. Bush described overall plans for the pond and input he had received from an engineering firm regarding construction.

Mr. and Mrs. Herman, who live at 6812 Campbell Blvd., were present at the public hearing and were not in favor of the Pond because it would attract Geese and Deer.

Mr. Cousins, who lives at 6820 Campbell Blvd., was present at the public hearing and not in favor of the Pond because it could be a potential safety hazard.

Mr. and Mrs. Battaglia, who live at 6760 Campbell Blvd., were present at the public hearing and wanted to know if the pond would be constructed before the residence. Mr. Bush responded that it would be constructed first.

Mr. Walter, who lives at 4935 Meyer Rd., was present at the public hearing and not in favor of the Pond because it would be very close to the adjoining parcel and felt that the pond's overflow needed to be addressed.

The formal public hearing was closed at approximately 7:47 PM.

Jai Samra
6755 Aiken Rd.
Lockport, NY 14094

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton. Owner wishes to construct a 777 sq. ft. accessory structure where 600 sq. ft. is maximum allowed per Town Code §247-34.E.(1). Area variance sought is 177 sq. ft. accessory structure size variance. Property is 0.75 acres and zoned R1 Low-density Residential. It was noted by the ZBA that a maximum building height allowed was 16 ft. for a compliant 600 sq. ft. Accessory structure.

Mr. Samra presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the location of the accessory structure. Mr. Samra also stated that the structure would be used to store tools, cars and bicycles. Mr. Samra also agreed to remove an existing 150 sq. ft. structure

Mr. Rod Neubauer, who lives on 6763 Aiken Road, was present at the public hearing and attended for information only.

Mrs. Carrie Marciniak, who lives on 6743 Aiken Road, was present at the public hearing and attended for information only.

The formal public hearing was closed at approximately 8:04 PM.

Todd Hopkins
6147 Aiken Rd.
Lockport, NY 14094
Property Location: Just north of 6147 Aiken Rd

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton. Owner wished to build an agricultural building at a side setback of 55 ft. where minimum 100 ft. is required per Town Code §247-40.A. Area variance sought is 45 ft. side setback. Property is approximately 24 acres and zoned R2 Medium-density Residential.

Mr. Hopkins presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the size, location, and orientation of the agricultural building. Mr. Hopkins explained that building would be used to store farming equipment along with ponies, pigs, and chickens.

Mr. Todd Ostrowski, who owns adjoining property on Mapleton Rd. was present at the public hearing for information only

The formal public hearing was closed at approximately 8:21 PM.

Chris Alex
4932 Devonshire
Lockport, NY 14094

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton. Owner wishes to construct an 830 sq. ft. accessory structure with a height of 20 ft. at a front yard setback of 92.7 ft. where maximum size allowed is 600 sq. ft. per Town Code §247-34.E.(1), maximum height allowed is 16 ft. per Town Code §247-34.F.(2).(d), and minimum front yard setback required is 150 ft. per Town Code §247-34.F.(2).(a). Area variances sought are: 230 sq. ft. accessory structure size, 4 ft. accessory structure height, and 57.4 ft. front yard setback. Property is 0.5 acres and zoned R2 Medium-density Residential.

Mr. Alex presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the location of the accessory structure. Mr. Alex intended to use part of the structure as a car garage and part as an accessory structure for his backyard swimming pool.

The formal public hearing was closed at approximately 8:29 PM.

**Salvatore Cantanese (Continuation of December 2015 Public Hearing)
SBL No. 150.01-1-19.1
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new self-storage facility that would contain several small storage units where the use is not permitted by right. The variance request would be to construct the storage facility consisting of many small building as per Code Section 247-12. The size of the property is approximately 5.4 acres and is CO-1 light commercial zoning.

Mr. Buechler indicated to the ZBA members that the owner and other interested party had been notified we would close this hearing with no action unless someone pursued it further at this meeting. No one concerning this variance application was present.

The formal public hearing was closed with no further Board action planned.

REGULAR ZBA MEETING:

New Inquiries to ZBA:

Mr. Zeiss, of 7225 Creekbend inquired if we received a letter from his Lawyer and if he were to reapply for a variance, would it be granted. The Board discussed the case with prior denial with Mr. Zeiss and agreed to perform site visits to his property to view alternate locations for a structure.

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the March 22, 2016 meeting and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Charles Dimaria
4188 Tonawanda Creek Rd.
N Tonawanda, NY 14120**

A motion was made by Mr. Buechler to table deliberation, allowing the ZBA members to visit the property and determine how the larger accessory structure would fit on a parcel of that size. The motion was seconded by Mr. Schlemmer. All voted in favor.

Kevin Bush
318 Locust St.
Lockport, NY 14094

The ZBA board reviewed the Area Variance tests, and commented as follows:

- a. Will the granting of the variance result in an undesirable change to the character of the neighborhood or will it be detrimental to nearby properties?

The board members felt that the granting of the variance would create an undesirable change to the neighborhood and nearby properties and would be contrary to the intent of the Code's 100 ft. setback requirement.

- b. Are there alternative solutions that would not require a variance?

It was agreed that the dimensions of the property would not support a pond that was compliant with Town Code.

- c. Is the requested variance substantial?

It was agreed that the requested side yard setback was substantial.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

It was agreed that the variance would have an adverse effect on the physical or environmental conditions in the neighborhood, including a potential safety issue.

- e. Is the applicant's difficulty self-created?

It was agreed that the applicant's difficulty was self-created.

A motion was made by Mr. Welka to deny the requested variance for side setback. The motion was seconded by Mr. Schlemmer. All voted in favor.

Jai Samra
6755 Aiken Rd.
Lockport, NY 14094

A motion was made by Mr. Buechler to table deliberation, allowing the ZBA to vote on this variance with all members present. The motion was seconded by Mr. Schlemmer. All voted in favor.

Todd Hopkins
6147 Aiken Rd.
Lockport, NY 14094
Property Location: Just north of 6147 Aiken Rd

A motion was made by Mr. Daigler to table deliberation, allowing the ZBA members to evaluate an alternate location for the building. The motion was seconded by Mr. Buechler. Mr. Daigler, Mr. Buechler and Mr. Schlemmer voted in favor. Mr. Welka voted against. The deliberation was tabled.

Chris Alex
4932 Devonshire
Lockport, NY 14094

A motion was made by Mr. Buechler to table deliberation, allowing the ZBA to determine where a compliant structure could be located on the parcel. The motion was seconded by Mr. Schlemmer. All voted in favor.

Carrie Marciniak
6743 Aiken Road
Pendleton, New York

A motion was made by Mr. Buechler to table deliberation, allowing the ZBA to vote on this variance with all members present. The motion was seconded by Mr. Schlemmer. All voted in favor.

Correspondence:

1. Workplace Violence Training May 17, 2016 1:00 PM. The Supervisor will provide alternate training opportunity for those who can't make this date/time.

Special Topics:

1. Mr. Buechler indicated to the ZBA members that he had written an email to Amy Fisk of the Niagara County Planning Board regarding a renewal of the referral requirements. Ms. Fisk had responded and felt that a renewal was not required and that the County would continue to honor the current agreement.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, May 24, 2016, at 7:00PM.

A motion was made by Dennis Welka to adjourn the meeting at 9:37 PM, and seconded by Wolfgang Buechler.

Submitted for:

James G. Meholick
Secretary

Attachments: Available in the Town Clerk's Office
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Alex, Bush, Dimaria, Hopkins & Samra
Town of Pendleton Denial of Building Application for Mr. Chris Alex
Town of Pendleton Public Hearing Request for Mr. Chris Alex
Town of Pendleton Notice of Public Hearing for Mr. Chris Alex
Town of Pendleton Denial of Building Application for Mr. Kevin Bush
Town of Pendleton Public Hearing Request for Mr. Kevin Bush
Town of Pendleton Notice of Public Hearing for Mr. Kevin Bush
Site Plot Plan for Mr. Kevin Bush Pond
Town of Pendleton Denial of Building Application for Mr. Charles Dimaria
Town of Pendleton Public Hearing Request for Mr. Charles Dimaria
Town of Pendleton Notice of Public Hearing for Mr. Charles Dimaria
Letter from Edward Arida Regarding Dimaria Variance Decision
Town of Pendleton Denial of Building Application for Mr. Todd Hopkins
Town of Pendleton Public Hearing Request for Mr. Todd Hopkins
Town of Pendleton Notice of Public Hearing for Mr. Todd Hopkins
Town of Pendleton Denial of Building Application for Mr. Jai Samra
Town of Pendleton Public Hearing Request for Mr. Jai Samra
Town of Pendleton Notice of Public Hearing for Mr. Jai Samra