

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
April 25, 2017 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. All ZBA members, and The Town Prosecutor, Mr. Ned Perlman, were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

Robert Braunscheidel
7002 Creekview Drive
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 10 ft. x 24 ft. (240 sq. ft.) addition to an existing 24 ft. x 24 ft. (576 sq. ft.) accessory structure for a total size of 816 sq. ft. where the maximum accessory structure size is 600 sq. ft. per Town Code. The area variance request would be 216 sq. ft. as per Town Code §247-34.E.(1). The property is 0.717 acres and is R-1 low density residential zoning.

Mr. Braunscheidel 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 extension. Mr. Braunscheidel indicated that he needed the additional storage space for his trailers & vehicles. He also commented that he thought there was a 25 ft. easement in the back of his lot due to the wetlands on the adjacent property.

During the review of the site survey it was noted that the accessory structure was built at a side yard setback of approximately 13.65 ft. which does not meet the Town Code of 15 feet.

His neighbor, Mr. Mike Seibel, was present at the meeting and had no issue with the variance request as the addition would be built behind the existing building and wouldn't be seen from the road.

All ZBA members stated that they had driven by or visited the property.

The formal public hearing was closed at approximately 7:20 PM.

**Robert & Suzanne Brauer
(Sean Hopkins as Representative)
The Meadows Subdivision
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a new 51 lot subdivision called “The Meadows” that requires depth & area variances on several lots as per Town Code Sections §247-11.C.(1) & §247-11.C.(5). The property is 53.2 acres and is R-2 medium density residential zoning.

Mr. Hopkins presented the Town of Pendleton Building Department’s denial, site survey sketch of the proposed subdivision, list of properties that will require a depth variance, and a list of properties that will require an area variance. Mr. Hopkins reviewed the proposed lots that required depth & area variances due to wetland & drainage requirements, and his letter that responded to the area variance criteria that the ZBA uses to review a variance request. He also indicated that most of the lots would be 100 ft. x 250 ft. (25,000 sq. ft.) with the exception of the cul-da-sac lots, the subdivision would be zoned R-2 medium residential, and would be for single family residences only.

Several neighbors were present at the meeting. Mr. Tom Spatorico was concerned that the developers would be removing the tree line that separates the adjacent subdivision from the proposed new development. Mr. Paul Deprist indicated that he has had drainage issues on his property from the initial subdivision and was concerned that they would become worse with the proposed new development. He also has had to add a considerable amount of trees to his property due to the glare from car headlights, and many have died due to the drainage issues.

All ZBA members stated that they had driven by or visited the property.

The formal public hearing was closed at approximately 8:00 PM.

REGULAR ZBA MEETING:

New Inquiries to ZBA:

Mr. Buechler indicated to the ZBA members that Empire Pipeline Inc. has made a request for an Interpretation & Use Variance for the proposed compressor station & related equipment located at 4281 Killian Road in a Light Industrial District in the Town of Pendleton. A copy of the request was previously copied by Mr. Buechler & E-mailed to the ZBA members. Mr. Adam Walters from Phillips Lytle LLP was present at the discussion to represent Empire Pipeline. The Empire Pipeline discussion was recorded by Ms. Bonnie Weber from Jack W. Hunt & Associates.

Mr. Buechler wanted to discuss several items prior to the public hearing as follows:

1. Recusal from the Public Hearing of Board Members Buechler & Welka that was requested in the Phillips Lytle LLP letter.
2. Recording of proceedings. It was decided to use the Phillips Lytle LLP court reporter.
3. Who will represent the town during the public hearing.
4. Questioned whether the ZBA needs to refer the use variance request to the Niagara County Planning Board.
5. Location of the public hearing.
6. Sign up procedure & time limits for comments by the public.

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the April 25, 2017 meeting and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:

**David Deberny (Continued from March Meeting)
5731 Fisk Road
Pendleton, New York**

Mr. Buechler indicated that Mr. Deberny had decided to withdraw his variance application for the construction of an accessory on the vacant lot next to his residential lot. He has decided to move the shed to his residential property. No further action will be taken by the ZBA.

**Robert Braunscheidel
7002 Creekview Drive
Pendleton, New York**

A motion was made by Mr. Meholick to table the deliberation in order to review if Mr. Braunscheidel requires a side yard setback variance and if a 25 ft. rear easement exists on his lot. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Robert & Suzanne Brauer
(Sean Hopkins as Representative)
The Meadows Subdivision
Pendleton, New York**

A motion was made by Mr. Meholick to table the deliberation in order to review the area & depth variance requests. The motion was seconded by Mr. Welka. All voted in favor.

Correspondence: *None*

Special Topics:

1. Mr. Kech, who was representing Mr. Urban, the property owner on 6856 Transit Road, requested that the ZBA reconsider his request to construct a high temperature air dome at a maximum height of 60 ft. where the maximum height of 35 ft. is specified in Town Code §247-13.J. Mr. Schlemmer, who was not present at the March meeting, indicated that he had reviewed the variance request & had visited the property.

A motion was made by Mr. Buechler to grant the height variance as detailed in the request, and was seconded by Mr. Daigler. Mr. Buechler & Mr. Daigler voted in favor of the variance request; and Mr. Meholick, Mr. Welka & Mr. Schlemmer voted against the request. The application for the height variance was denied.

2. Based on the volume of matters that will be brought up for the ZBA meeting in May, a motion was made by Mr. Schlemmer to hold a special public hearing on May 25th at 7:00 PM for the Empire Pipeline interpretation & use variance requests. The motion was seconded by Mr. Meholick. All voted in favor.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, May 23, 2017, at 7:00PM.
2. Special ZBA public hearing for the Empire Pipeline is scheduled for Thursday, May 25, 2017, at 7:00PM.

A motion was made by Jim Schlemmer to adjourn the meeting at 9:00 PM, and seconded by Lee Daigler.

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 Braunscheidel & Brauer
Town of Pendleton Denial of Building Application for Mr. Robert Braunscheidel
Town of Pendleton Public Hearing Request for Mr. Robert Braunscheidel
Town of Pendleton Notice of Public Hearing for Mr. Robert Braunscheidel
Site Survey of Property for Mr. Robert Braunscheidel
Town of Pendleton Denial of Building Application for Robert & Suzanne Brauer
Town of Pendleton Public Hearing Request for Robert & Suzanne Brauer
Town of Pendleton Notice of Public Hearing for Robert & Suzanne Brauer
Site Survey of Property for Robert & Suzanne Brauer
Lot Depth Property Variance List for Robert & Suzanne Brauer
Lot Area Property Variance List for Robert & Suzanne Brauer
Letter from HSR to Wolf Buechler for Robert & Suzanne Brauer
E-mail to Wolf Buechler for Mr. Deberny Withdrawing his Application