

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
August 27, 2014 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:

Kevin Keetch
4593 Mapleton Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 30 ft. x 40 ft. (1,200 sq. ft.) accessory structure on his property that also includes an existing 26.2 ft. x 22.2 ft. (581.6 sq. ft.) accessory structure, for a total area of 1,781.6 sq. ft. where the maximum aggregate area allowed is 1,200 sq. ft. per town code. The area variance request would be 581.6 sq. ft. as per Code Section 247-34.E.(2). The size of the property is approximately 2.8 acres and is CO-1 light commercial zoning however it is currently used as residential.

Mr. Keetch indicated that he wanted to construct a 30 ft. x 40 ft. accessory structure with 10 ft. walls and a 6 ft. peak having a 4/12 roof pitch for storage on his property. He stated that in addition to his 2.8 acre property he owns an adjacent 2.4 acre parcel for a total of 5.2 acres. He also presented a letter from his neighbor who lives to the left of his property, Mr. Todd Ostrowski, who has offered his full support in granting the variance request.

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

The formal public hearing was adjourned at approximately 7:15 PM.

Cheryl Borner
4872 Meyer Road
Pendleton, New York

AMENDED APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 30 ft. x 40 ft. (1,200 sq. ft.) accessory structure with an existing 12 ft. x 12 ft. (144 sq. ft.) gazebo for a total area of 1,344 sq. ft. where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 744 sq. ft. as per Code Section 247-10.A(5) to 247-34.E.(1). The size of the property is approximately 2 acres and is R-1 low density residential zoning.

Ms. Borner indicated that she had decided to delete the 8 ft. x 40 ft. overhang that was originally proposed with the accessory structure. The property currently included a pool deck, wood shed, metal shed, and a temporary structure on the side of the garage which she indicated would be torn down if the variance was approved. There also was a gazebo on the property which was not included originally in the variance request which was added in the amended application. Ms. Borner wanted to clean up the property so she could store all of her items in one building. She presented to the ZBA a package of information which included the amended public hearing request form, letter describing what was to be stored in the structure, site survey of the property showing the proposed location of the building, floor plan of the structure, sketch of the building with the contents, and the drawing of the pole barn.

Ms. Borner's neighbor who lives to the right side of her property, Mr. Ted Belling, was present at the public hearing and voiced no objection to the proposed accessory structure.

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

The formal public hearing was adjourned at approximately 7:25 PM.

REGULAR ZBA MEETING:

New Inquiries to ZBA:

Ronald LaRoque
SBL No. 150.01-1-39
6323 Campbell Boulevard
Pendleton, New York

Mr. LaRoque has inquired about constructing a commercial use building with a side yard setback of 70 ft. where the minimum allowed is 100 ft. per town code. The side yard variance request would be 30 ft. as per Code Section 247-12.H(2). The size of the property is 200 ft. x 272 ft. and is CO-1 light commercial zoning.

Mr. Meholic filled out an application for a public hearing, and Mr. Buechler instructed Mr. LaRoque on how to file the application with the town clerk.

David Krebs
6670 Aiken Road
Pendleton, New York

Mr. David Krebs has inquired about constructing a new 12 ft. x 30 ft. (360 sq. ft.) accessory structure to replace an existing 10 ft. x 12 ft. accessory structure with a front yard setback of 74 ft. where the minimum allowed is 150 ft. per town code. The area variance request would be 76 ft. as per Code Section 247-11.A(5) to 247-34. The size of the property is approximately 0.75 acres and is R-2 medium density residential zoning.

Mr. Meholick filled out an application for a public hearing, and Mr. Buechler instructed Mr. Krebs on how to file the application with the town clerk.

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the July 23, 2014 meeting and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:

Kevin Keetch
4593 Mapleton Road
Pendleton, New York

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 majority of the board members felt that the granting of the variance would not have an undesirable change to the neighborhood and nearby properties. Mr. Welka was concerned about the size of the accessory structure proposed as it did not meet the town code for residential size.

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

It was agreed that alternate solution would be to build a smaller accessory structure.

- c. Is the requested variance substantial?

It was agreed that the variance request 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 not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

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

After discussion, Mr. Daigler made a motion to grant the variance for the project detailed in the request, and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Meholick. Mr. Buechler, Mr. Daigler, Mr. Meholick & Mr. Schlemmer voted in favor of the motion. Mr. Welka voted against the motion. The variance request passed.

Cheryl Borner
4872 Meyer Road
Pendleton, New York

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 majority of the board members felt that the granting of the variance would not have an undesirable change to the neighborhood and nearby properties. Mr. Welka was concerned about the size of the accessory structure proposed as it did not meet the town code for residential size.

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

It was agreed that alternate solution would be to build a smaller accessory structure.

- c. Is the requested variance substantial?

It was agreed that the variance request 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 not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

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

After discussion, Mr. Buechler made a motion to grant the variance for the project detailed in the request, conditional upon removal of the four identified structures, and to impose a one year time limit on completion of the proposed project including the removal of the structures identified above. The motion was seconded by Mr. Schlemmer. Mr. Buechler, Mr. Daigler, Mr. Meholick & Mr. Schlemmer voted in favor of the motion. Mr. Welka voted against the motion. The variance request passed.

Tony Moscato (See July 23, 2014 Minutes)
7192 Creekbend Drive
Pendleton, New York

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 have an undesirable change to the neighborhood and nearby properties.

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

It was agreed that the alternate solution would be to rearrange the design of the patio to meet the town code for side yard setback.

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial as the request was for two thirds of the town code for side yard setback.

- 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 not have an adverse effect on the physical or environmental conditions in the neighborhood.

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

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

After discussion, Mr. Welka made a motion to deny the variance for the project detailed in the request. The motion was seconded by Mr. Schlemmer. All voted in favor to deny the variance.

Correspondence: *None*

Special Topics:

1. Motion was made by Jim Meholick to change the next meeting to Monday, September 22, 2014, and was seconded by Jim Schlemmer. All voted in favor.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Monday, September 22, 2014, at 7:00PM.

A motion was made by Jim Meholick to adjourn the meeting at 8:35 PM, and seconded by Dennis Welka.

Submitted by:

James G. Meholick
Secretary

Attachments: (available at the Town Clerk's Office)

- Town of Pendleton Zoning Board of Appeals Sign-In Sheet
- Public Hearing Mailing List for Keetch & Borner Public Hearings
- Town of Pendleton Notice of Public Hearing for Mr. Kevin Keetch
- Site Survey of Property from Mr. Kevin Keetch
- Letter from Todd Ostrowski for Mr. Kevin Keetch
- Town of Pendleton Notice of Public Hearing for Ms. Cheryl Borner
- Amended Town of Pendleton Public Hearing Request from Ms. Cheryl Borner
- Letter to ZBA from Ms. Cheryl Borner
- Site Survey of Property from Ms. Cheryl Borner
- Accessory Structure Floor Plan from Ms. Cheryl Borner
- Sketch of Proposed Structure with Contents from Ms. Cheryl Borner
- Drawing of Proposed Structure from Ms. Cheryl Borner
- Town of Pendleton Denial of Building Application from Mr. Ronald LaRoque
- Town of Pendleton Public Hearing Request from Mr. Ronald LaRoque
- Photograph of Proposed Building from Mr. Ronald LaRoque
- Site Survey of Property from Mr. Ronald LaRoque
- Site Survey of Property with Building Location from Mr. Ronald LaRoque
- Town of Pendleton Denial of Building Application from Mr. David Krebs
- Town of Pendleton Public Hearing Request from Mr. David Krebs
- Site Survey of Property from Mr. David Krebs