

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
August 22, 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. All members were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

Carlton Zeiss
7225 Creekbend 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 16 ft. (160 sq. ft.) accessory structure at the rear of his pie shaped property with equal setbacks from each side lot line of 9 ft. (front of structure) and 5 ft. (rear of structure) where the minimum required is 15 ft. per town code. The side yard setback variances would be 10 ft. & 6 ft. as per Code Section §247-34.F.(2)(b). Property is 0.60 acres and is R-2 medium density residential zoning.

Mr. Zeiss presented the Town of Pendleton Building Inspector's denial; a site survey sketch of the property that illustrated the location of the proposed shed; and a letter from his neighbor, Ms. Jennifer Warthling, in favor of granting the variance request. Mr. Zeiss indicated that in order to meet town code the shed would have to be located in the center of his property, and the proposed location of the shed would be aligned with his neighbor's shed.

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

The formal public hearing was closed at approximately 7:10 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the July 25, 2016 meeting and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Carlton Zeiss
7225 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 not create an undesirable change to the neighborhood and nearby properties as the accessory structures on the Zeiss side of Creekbend Drive were located in the rear of the properties.

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

It was agreed that the only alternative solution would be to locate the shed in the center of the yard compliant with town code, but this location would sacrifice prime yard space.

- c. Is the requested variance substantial?

It was agreed that the requested area variance was substantial but not visually detrimental to the neighborhood.

- 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 not self-created due to the lot pie shaped lot constraints.

A motion was made by Mr. Welka to approve the variance as detailed in the request, and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Schlemmer. All voted in favor.

**Tara Richards (Continuation of July 2016 Public Hearing)
5812 Fisk Road
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct an above ground pool at a side yard setback of 11 ft. where the minimum is 15 ft. per town code. The side yard setback variance request would be 4 ft. per Code Section §222-2.C. Property is 0.88 acres and is R-2 medium density residential zoning.

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 not create an undesirable change to the neighborhood and nearby properties as the pool was going to be located within an existing screening fence.

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

It was agreed that the alternative solution would be to relocate the pool further back in the property to make this compliant with town code, but there were restrictions caused by the location of the septic system & leach field on the property.

- c. Is the requested variance substantial?

It was agreed that the requested area variance was not substantial as the request was 25% of the town code.

- 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.

A motion was made by Mr. Welka to approve the variance as detailed in the request, impose a one year time limit on completion of the proposed project, and a restriction that any future pool decking comply with the 11 ft. side yard setback as a minimum. The motion was seconded by Mr. Schlemmer. Mr. Schlemmer, Mr. Meholick, Mr. Welka & Mr. Buechler voted in favor of granting the variance request, and Mr. Daigler voted against. The variance request was approved.

Correspondence:

1. Training Flyer from NCCC to be held on Thursday, October 20, 2016; by the Local Government Division of the NYS Department of Training for Local Boards.

Special Topics: None

1. Request for 2017 Pendleton Budget from Don Bergman.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, September 27, 2016, at 7:00PM.

A motion was made by Lee Daigler to adjourn the meeting at 7:43 PM, and seconded by Dennis Welka.

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 Mr. Carleton Zeiss
Town of Pendleton Denial of Building Application for Mr. Carleton Zeiss
Town of Pendleton Public Hearing Request for Mr. Carleton Zeiss
Town of Pendleton Notice of Public Hearing for Mr. Carleton Zeiss
Site Survey of Property for Mr. Carleton Zeiss
Letter from Jennifer Warthling for Mr. Carleton Zeiss
NCCC Training Flyer