

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
December 23, 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 were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

**Lauren Molloy (Continuation of November 25th Public Hearing)
East Canal Road SBL No. 151.00-1-53.1
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new single family home with a front yard setback of 500 ft. where the maximum allowed is 250 ft. per town code. The front yard variance request would be 250 ft. as per Code Section 247-11.D.(3). The size of the property is approximately 44.7 acres and is R-2 medium density residential zoning.

Ms. Molloy indicated that she wanted to construct a new single family home further back in the property due to several constraints with the property. From East Canal Road the property dips down and then rises back up where it is level at 400 feet from the road. At a distance of 500 ft. there is a cleared area which is the preferred location to build the house. There is also a tree line at 250 ft. from the road and if they built the house at this distance they would be looking into the back yard of the neighbor. She plans to add solar panels to the house and stated that a distance of 100 ft. from the tree line was required for optimal performance of the panels. It was noted that the 30 acres of property to the south was owned by the state.

Ms. Molloy stated that she had meet with the Wendelville fire company chief and that they had no issue with the house being built further back on the property. The only stipulation that they requested was that the entrance access be free of debris and have no sharp curves. Ms. Molloy was in agreement with this request. She also presented a letter from Solar Liberty that stated the solar panels would be more cost effective & productive in the proposed home location.

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

The formal public hearing was closed at approximately 7:12 PM.

Andrew Forrestel
7180 Creekbend Drive
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 12 ft. x 12 ft. (144 sq. ft.) accessory structure with a side yard setback of 3 ft. where the minimum allowed is 15 ft. as per town code, and a 73 ft. front yard setback where a minimum of 150 ft. is required as per town code. The side yard variance request would be 12 ft. and the front yard variance request would be 77 ft. as per Code Section 247-11.A(5) to 247-34.F.(2)(A)&(B). The size of the property is approximately 0.5 acres and is R-2 medium density residential zoning.

Mr. Forrestel presented the Town of Pendleton Building Inspectors denial letter, site survey of the property that illustrated the proposed location of the accessory structure, and a letter from his neighbor, Mr. Andrew Cianflone, who had no objections to the construction of the accessory structure on the location shown on the survey. Mr. Forrestel indicated that no other location was acceptable on the property.

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

A motion was made by Mr. Welka to table the public hearing to verify the front yard setback property dimensions to the house, and was seconded by Mr. Schlemmer. All voted in favor.

The formal public hearing was tabled at approximately 7:35 PM.

Jerry Gradl / Kirk Rutherford
7007 Campbell Boulevard
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 24 ft. x 80 ft. (1,920 sq. ft.) addition on the east side of the property with a side yard setback of 49.61 ft. where the minimum allowed is 100 ft. as per town code. The side yard variance request would be 50.39 ft. as per Code Section 247-12.11(1). The size of the property is approximately 2.4 acres and is CO-1 light commercial zoning.

Mr. Gradl presented the Town of Pendleton Building Inspectors denial letter, and the site survey of the property that illustrated the proposed location of the building addition. Mr. Gradl indicated that he intended to store race cars & antique cars in the new structure. He had considered constructing the addition behind the existing structure, but there was a significant price difference as going back required a steel building (structural & skin) as opposed to a steel skin with wood beams for the building on the side of the existing structure. In addition, adding the structure on the west side of the building would bring it too close to a second structure on the property.

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

The formal public hearing was closed at approximately 7:55 PM.

REGULAR ZBA MEETING:

New Inquiries to ZBA: None

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the November 25, 2014 meeting and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Lauren Molloy
East Canal Road SBL No. 151.00-1-53.1
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 have an undesirable change to the neighborhood and nearby properties as there would be no removal of trees, and that it would not be detrimental to the neighbors or DOT property.

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

It was agreed that an alternative solution would be to remove the trees and build the home in compliance with town code, but it would not achieve their solar objective.

- c. Is the requested variance substantial?

It was agreed that the requested distance was substantial as it was twice 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 as the proposed home would be built in the cleared space of the property.

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

It was agreed that the applicant's difficulty was self-created as they desired to install solar panels for powering the home.

A motion was made by Mr. Schlemmer 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. Welka. Mr. Meholick, Mr. Schlemmer & Mr. Welka voted in favor of the motion; and Mr. Buechler & Mr. Daigler voted against. The variance request was passed.

**Jerry Gradl / Kirk Rutherford
7007 Campbell Boulevard
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 have an undesirable change to the neighborhood and nearby properties as the lot was solidly commercial and the building addition would have no significant difference to the property.

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

It was agreed that an alternative solution would be to construct the building on the other side of the property, but it would crowd the space between both of the existing structures. If built behind the existing building it would add more cost to the project and access to the addition would become an issue.

- c. Is the requested variance substantial?

It was agreed that the requested distance was substantial as it was 50% 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.

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.

Correspondence:

1. Letter to Mr. Jim Riester from the Building Inspector, Mr. Dave Gerber, detailing their policy of issuing a Notice of Violation and Order to Remedy.

Special Topics: *None*

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, January 27, 2014, at 7:00PM.

A motion was made by Jim Meholick to adjourn the meeting at 9:15 PM, and seconded by Jim Schlemmer.

Submitted by:

James G. Meholick
Secretary

Attachments: Available in the Town Clerk's Office
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Letter from Solar Liberty for Ms. Lauren Molloy
Town of Pendleton Denial of Building Application for Mr. Andrew Forrestel
Letter from Andrew Cianflone for Mr. Andrew Forrestel
Town of Pendleton Denial of Building Application for Gradl & Rutherford
Site Survey of Property for Mr. Gradl & Mr. Rutherford
Sketch of Proposed Building Addition for Mr. Gradl & Mr. Rutherford
Letter from Dave Gerber to Jim Riester