

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
January 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 7:05 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:

Blair Maurer
4555 Meyer Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 36 ft. x 48 ft. (1,728 sq. ft.) accessory structure with a 12 ft. x 48 ft. canopy overhang for a total area of 2,304 sq. ft. where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 1,704 sq. ft. as per Code Section 247-34.E.(1). The size of the future property to be subdivided is approximately 1.7 acres and is R-2 medium density residential zoning.

Mr. Maurer was not present at the meeting and did not communicate with any of the ZBA members to say he would not be present at the meeting.

Mr. Maurer's neighbors, Lynn & Sam Pinto, who live on 4575 Beach Ridge Road were present at the meeting. They felt that the building due to its size was going to be used for commercial use. They were concerned that it would affect the character of the neighborhood and that property values would go down. They indicated that they have lived in their home for 28 years.

Ms. Cathy Winter, who lives on 4623 Kriston Lane, was against the size of the building and also felt that property values would go down if they were allowed to build this accessory structure.

Mr. Deke Lemieux, who lives on 4606 Beach Ridge Road, was against granting the variance request and didn't want the building to be used for rental storage.

Mr. Eli Thompson, who lives across the street on 4567 Beach Ridge Road, was also against granting the variance.

Mr. Don Metz, who lives on 4590 Meyer Road, was present at the meeting but had no comments.

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

The formal public hearing was closed at approximately 7:30 PM.

**Andrew Forrestel (Continuation of December 23rd Public Hearing)
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. Buechler verified to the ZBA the front yard setback property dimensions to the house and per the Building Inspector, the solid line on the survey was the edge of the right of way.

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

REGULAR ZBA MEETING:

New Inquiries to ZBA: None

Review Minutes from Prior Meeting:

A motion was made by Jim Schlemmer to accept the minutes of the December 23, 2014 meeting and was seconded by Dennis Welka. All voted in favor.

Specific Board Deliberation Actions:

**Blair Maurer
4555 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 board members felt that the granting of the variance would have an undesirable change to the neighborhood and nearby properties on Kriston Lane and Beach Ridge Road.

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

It was agreed that an alternative solution would be to build the accessory structure in compliance with town code.

- c. Is the requested variance substantial?

It was agreed that the requested size was substantial as it was four times 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 have an adverse effect on the physical or environmental conditions in the neighborhood as the proposed structure would have a visual impact due to its size.

- 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 variance as detailed in the request, and was seconded by Mr. Schlemmer. All voted in favor. The variance request was denied.

**Andrew Forrestel
7180 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 as the proposed location of the accessory structure on the side of the house would have an undesirable visual impact.

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

It was agreed that an alternative solution would be to construct the building in the back of the property near the existing fence that would meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested 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.

A motion was made by Mr. Meholick to deny the variance as detailed in the request, and was seconded by Mr. Schlemmer. All voted in favor. The variance request was denied.

Correspondence: *None*

Special Topics:

- 1. No changes to the contact information for the ZBA board were made.
- 2. The ZBA board set the 2015 schedule for the 4th Tuesday of every month with the exception of the months of June, July & August. The meetings for these months will be on a Monday. The meeting dates will be June 22nd, July 27th, and August 24th.

A motion was made by Jim Meholick to accept the 2015 meeting schedule, and was seconded by Dennis Welka. All voted in favor.

- 3. The ZBA board set the 2015 start time for the meetings at 7:00PM.
- 4. The ZBA board reviewed the current sign-in sheet and no changes were made to the form.
- 5. The ZBA board reviewed the current "Request to Petition for a Variance" form and no changes were made.

6. The ZBA board reviewed the 2014 status & rollover balances for training, and 2015 requirements.
7. The ZBA board reviewed the 2014 attendance for each member.
8. The ZBA board reviewed the referral requirement to the Niagara County Planning Board.
9. The ZBA board reviewed the notification requirement to neighboring municipalities.

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, February 24, 2015, at 7:00PM.

A motion was made by Jim Schlemmer to adjourn the meeting at 8:20 PM, and seconded by Dennis Welka.

Submitted by:

James G. Meholick
Secretary

Attachments: Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Mr. Blair Maurer
Town of Pendleton Denial of Building Application for Mr. Blair Maurer
Town of Pendleton Public Hearing Request for Mr. Blair Maurer
Town of Pendleton Notice of Public Hearing for Mr. Blair Maurer
Sketch of Property with Proposed Building Locations for Mr. Blair Maurer
Aerial View #1 of Property with Proposed Building Locations for Mr. Maurer
Aerial View #2 of Property with Proposed Building Locations for Mr. Maurer
Photograph of Proposed Building Locations for Mr. Blair Maurer