

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
June 22, 2015 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:

Joe Woodward
5520 Oakwood Drive
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.) detached garage to replace an existing 18 ft. x 20 ft. (360 sq. ft.) detached garage and shed where the maximum allowed is 481 sq. ft. per town code (50% of primary residence). The detached garage would be placed at a front yard setback of 87 ft. where the minimum allowed is 100 feet, and the garage height would be approximately 17 ft. where the maximum allowed is 12 ft. (“not to exceed the height of the primary structure”). The detached garage area variance request would be 719 sq. ft. as per Code Section 247-11.I, the front yard setback variance request would be 13 ft. as per Code Section 247-11.D.(1), and the garage height variance request would be 5 ft. as per Code Section 247-11.G.(2). The size of the property is approximately 1.1 acres and is R-2 medium density residential zoning.

A motion was made by Mr. Buechler to rehear the public hearing with new circumstances. Mr. Buechler, Mr. Schlemmer, Mr. Daigle & Mr. Welka voted to rehear the public hearing; and Mr. Meholick voted against the new hearing. Since a rehearing motion requires a unanimous vote, the motion failed to pass. The original variance that was granted at the May hearing is still valid, and Mr. Woodward presented his new request for a detached garage variance.

Mr. Woodward presented the Town of Pendleton Building Inspector’s denial, the site survey of the property that illustrated the proposed location of the detached garage with relationship to the house, drawing of the proposed building, and the contents layout of the accessory structure. He indicated that the building would be at an 87 ft. setback from the right of way and would be used for cold storage of his collector cars and vehicles, ATV, and lawnmower; with a work area for his table and tools.

The ZBA questioned the need for a car lift, but was assured that it was for storage of his collector cars only. Mr. Woodward also indicated that the existing garage and shed would be torn down. It was also determined during the hearing that the detached garage height would be approximately 17 ft. and that it did not meet the town code as it should not exceed the height of the house which was indicated by Mr. Woodward to be approximately 12 feet. The variance request was revised as detailed above.

Alex and Paulette Alexander, who own property next to Mr. Woodward, were present at the meeting to hear the proposed plans. They were concerned that Mr. Woodward would be servicing cars in the garage, but were assured that this would not take place. The Alexander's had no objection to the proposed detached garage.

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

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

Jennifer Dexheimer
5877 Dunnigan Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 28 ft. x 32 ft. (896 sq. ft.) detached garage where the maximum allowed is 696 sq. ft. per town code (50% of primary residence). The area variance request would be 200 sq. ft. as per Code Section 247-11.I. The size of the property is approximately 0.75 acres and is R-2 medium density residential zoning.

Ms. Dexheimer presented the Town of Pendleton Building Inspector's denial, site survey of the property that illustrated the proposed location of the detached garage, and the contents layout of the building. She indicated they wanted to get the cars off of the driveway and that the detached Parco garage would be used for cold storage of her boat, Ford Escape, Toyota Matrix, motorcycles, canoe, kayak, bicycles, and snow blower; and will include a work bench with tools.

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

The formal public hearing was closed at approximately 7:36 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the May 26, 2015 meeting and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

**Joe Woodward
5520 Oakwood 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 variances would have an undesirable change to the character of the neighborhood due to the large size of the variance requests for area and height as well as the proximity of the proposed garage to the road.

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

It was agreed that the alternative solutions would be to build a smaller detached garage further back in the property with a reduced overall height.

- c. Is the requested variance substantial?

It was agreed that the variance requests were substantial as the area variance was 50% larger and the height was 30% greater than the town code. It was felt that the front yard setback variance request was not 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. Welka to deny the area, front yard setback, and height variances as detailed in the request, and was seconded by Mr. Meholick. Mr. Buecher, Mr. Daigler, Mr. Meholick and Mr. Welka voted in favor of the motion to deny; and Mr. Schlemmer voted against. The area variance request was denied.

**Jennifer Dexheimer
5877 Dunnigan 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 not have an undesirable change to the neighborhood as there are similar structures and because the proposed garage would be at a compliant front setback.

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

It was agreed that the alternative solution would be to build a smaller detached garage.

- c. Is the requested variance substantial?

It was agreed that the area variance request was substantial as it was 28% greater than 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 variances 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. Meholick. All voted in favor.

Correspondence: *None*

Special Topics: *None*

Miscellaneous ZBA Topics:

- 1. Next ZBA meeting is scheduled for Monday, July 27, 2015, at 7:00PM.

A motion was made by Jim Schlemmer to adjourn the meeting at 7:52 PM, and seconded by Dennis Welka.

Submitted by:

James G. Meholick
Secretary

Attachments: Available for review in the Town Clerk's Office
Town of Pendleton Zoning Board of Appeals Sign-In Sheet
Public Hearing Mailing List for Dexheimer & Woodward
Town of Pendleton Denial of Building Application for Mr. Joe Woodward
Town of Pendleton Public Hearing Request for Mr. Joe Woodward
Town of Pendleton Notice of Public Hearing for Mr. Joe Woodward
Site Survey of Property for Mr. Joe Woodward
Drawing of Proposed Accessory Structure for Mr. Joe Woodward
Layout Drawing of Accessory Structure for Mr. Joe Woodward
Town of Pendleton Denial of Building Application for Ms. Jennifer Dexheimer
Town of Pendleton Public Hearing Request for Ms. Jennifer Dexheimer
Town of Pendleton Notice of Public Hearing for Ms. Jennifer Dexheimer
Site Survey of Property for Ms. Jennifer Dexheimer
Layout Drawing of Accessory Structure for Ms. Jennifer Dexheimer