

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
June 27, 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 ZBA members were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

Joel Smith
5341 Tonawanda Creek Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 22 ft. x 22 ft. (484 sq. ft.) detached garage at a side yard setback of 10 ft. where minimum required is 15 ft. per town code. The side yard setback variance would be 3.5 ft. as per Code Section §247-34.E. Property is 1.8 acres and is R-2 medium density residential zoning.

Mr. Smith presented the Town of Pendleton Building Inspector's denial, and a site survey sketch of the property that illustrated the location of the proposed detached garage. Mr. Smith indicated that the reason for requesting the variance was because the right side of the garage was not readily accessible at a 15 ft. setback, and the driveway would be more in line with the garage if closer to the lot line. The garage would be constructed with a single door, and his neighbor was okay with his garage plans.

The formal public hearing was closed at approximately 7:06 PM.

Charles Dimaria
4188 Tonawanda Creek Rd.
N Tonawanda, NY 14120

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 1,140 sq. ft. accessory structure where the maximum allowed is 600 sq. ft. per town code. The area variance request is 540 sq. ft. per Code Section §247-34.E.(1). Property is 1.6 acres and is R-1 low density residential zoning.

Mr. Dimaria presented the Town of Pendleton Building Inspector's denial. It was noted there is also an existing 10 ft. x 12 ft. shed on the property that was not mentioned in the Building Inspector's denial. The existing shed added 120 sq. ft. to the variance, but Mr. Dimaria was willing to tear it down.

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

Thomas Grimmer
7172 Bear Ridge Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a 48 ft. x 30 ft. (1,440 sq. ft.) accessory structure at front yard setback of 60 ft. where minimum required is 150 ft. per town code. The front yard setback variance sought is 90 ft. per Code Section §247-34.F.(3)(A). Property is 19.6 acres and is R-1 low density residential zoning.

Mr. Grimmer presented the Town of Pendleton Building Inspector's denial, topographic & contour elevation drawings of the property, photograph of his house, and a sketch of the proposed structure in relationship to his house. It was noted there is also an existing 6 ft. x 7 ft. (42 sq. ft.) shed and 26 ft. x 125 ft. barn on the property. The existing house is 1,800 sq. ft. with an overall height of 19 feet. The town code allows for 2,000 sq. ft. of building area for 7+ acres of land. Mr. Grimmer indicated that he was unable to construct the building further back due to the slope of the property, and would construct the building to look similar to his home.

The formal public hearing was closed at approximately 7:22 PM.

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Dennis Welka to accept the minutes of the May 24, 2016 meeting and was seconded by Jim Schlemmer. All voted in favor.

Specific Board Deliberation Actions:

Joel Smith
5341 Tonawanda Creek 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 create an undesirable change to the neighborhood and nearby properties.

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

It was agreed that an alternative solution would be to attach the garage to the house.

- c. Is the requested variance substantial?

It was agreed that the requested area variance was substantial as it was 25% of 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, 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.

Charles Dimaria
4188 Tonawanda Creek Rd.
N Tonawanda, NY 14120

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 might create an undesirable change to the neighborhood and nearby properties. The accessory structure proposed was still considered large for the area even though the largest building in the neighborhood was 1,200 square feet.

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

It was agreed that the alternative solution would be to construct a smaller accessory structure to town code.

- c. Is the requested variance substantial?

It was agreed that the requested area variance was substantial as it was twice 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 could possibly have an adverse effect on the physical conditions in the neighborhood due to the physical size of the building. The ZBA members were not sure if the accessory structure would have an environmental effect.

- 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 approve the area variance for a total maximum aggregate of 1,200 sq. ft. with a maximum height of 16 ft., and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Schlemmer. Mr. Buechler, Mr. Daigler, Mr. Schlemmer & Mr. Meholick voted in favor of the motion; and Mr. Welka voted against. The motion was carried.

Thomas Grimmer
7172 Bear Ridge 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 create an undesirable change to the neighborhood and nearby properties.

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

It was agreed that there was not an alternative solution due to the slope of the property that would meet town code.

- c. Is the requested variance substantial?

It was agreed that the requested area variance was substantial as it was 60% of 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 could possibly have an adverse effect on the physical conditions in the neighborhood. The ZBA members were not sure if the accessory structure would have an environmental effect.

- 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 table the deliberation to further review the variance request, and was seconded by Mr. Welka. All voted in favor.

New Inquiries:

- 1. Mr. Sean Hopkins was present at the meeting representing The Meadows at Pendleton North proposed sub-division. Mr. Hopkins indicated that they were in initial design with 54 proposed lots, 100 ft. x 250 ft. in size. Eleven to fourteen of the lots were backed up to wetlands and would not meet the 25,000 sq. ft. minimum lot size. Once they have decided on the total number of lots he indicated that they would be applying for a variance for the lots in the wetlands.

Correspondence: *None*

Special Topics: *None*

Miscellaneous ZBA Topics:

- 1. Next ZBA meeting is scheduled for Monday, July 25, 2016, at 7:00PM.

A motion was made by Lee Daigler to adjourn the meeting at 7:52 PM, and seconded by Wolf Buechler.

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 Grimmer, Smith & Dimaria
Town of Pendleton Denial of Building Application for Mr. Joel Smith
Town of Pendleton Public Hearing Request for Mr. Joel Smith
Town of Pendleton Notice of Public Hearing for Mr. Joel Smith
Site Survey of Property for Mr. Joel Smith
Town of Pendleton Denial of Building Application for Mr. Charles Dimaria
Town of Pendleton Public Hearing Request for Mr. Charles Dimaria
Town of Pendleton Notice of Public Hearing for Mr. Charles Dimaria
Town of Pendleton Denial of Building Application for Mr. Thomas Grimmer
Town of Pendleton Public Hearing Request for Mr. Thomas Grimmer
Town of Pendleton Notice of Public Hearing for Mr. Thomas Grimmer
Topographic Drawing of Property for Mr. Thomas Grimmer
Contour Elevation Drawing of Property for Mr. Thomas Grimmer
Photograph of Home for Mr. Thomas Grimmer
Sketch of Accessory Structure with House for Mr. Thomas Grimmer