

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
March 24, 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. ZBA members Mr. Buechler, Mr. Daigler, Mr. Welka, and Mr. Meholick were present at the meeting. No changes to the ZBA agenda submitted by Wolfgang Buechler were made.

PUBLIC HEARINGS:

John McCullough
5735 Fisk Road
SBL No. 137.00-2-43.111
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 32 ft. (768 sq. ft.) accessory structure on a vacant lot before a primary residence is built, and where the maximum allowed is 600 sq. ft. per town code. The area variance request is 168 sq. ft. as per Code Section 247-34.E.(1). The size of the property is approximately 1.16 acres and is R-2 medium density residential zoning.

Mr. McCullough presented the Town of Pendleton Building Inspectors denial letter, the site survey of the property that illustrated the proposed location of the accessory structure & house, a picture of the proposed accessory structure, and two sketches of the proposed house.

Mr. McCullough indicated that the accessory structure would be constructed with steel sides & roof having a 15 ft. height and would be used for material & tool storage to build his new home starting in the summer of 2016. He expected to have the accessory structure completed by September of 2015 and the house finished by October of 2016.

The ZBA members present stated that they were not sure where the property was located. Mr. McCullough stated that the house on 5739 Fisk Road was the closest property.

A motion was made by Mr. Meholick to table the public hearing so the members could visit the property, and was seconded by Mr. Welka. All voted in favor.

The formal public hearing was tabled at approximately 7:20 PM.

Chet Patel
6082 Transit Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new commercial building at a height of 55 ft. where the maximum allowed is 35 ft. per town code, and at a north side setback of 71 ft. where the minimum allowed is 100 ft. per town code. The height variance request would be 20 ft. as per Code Section 247-13.J and the side setback variance request would be 29 ft. as per Code Section 247-13.H.(2). The size of the property is approximately 4.4 acres and is CO2 medium commercial zoning.

Mr. Patel and his architect Mr. Philip Silvestri presented the Town of Pendleton Building Inspector's denial letter and indicated that the intent of the variance request was to build a four story Hampton Inn on this property starting in September of 2015. Mr. Silvestri presented a site plan of the hotel and it was determined that the original side setback variance request of 71 ft. was incorrect and has been updated above to 29 feet. From the site plan the maximum height from the ground to the top of the facade was 55 ft. and the roof line would be at approximately 45 feet. They indicated that per Hampton Inn standard building designs the hotel would not be any higher than 55 feet.

Mr. Raymond Deiboldt, who lives on 6064 Transit Road next to the proposed building site, was present at the meeting to hear Mr. Patel's plans and had no objection with the hotel design or the property layout.

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

The formal public hearing was closed at approximately 7:50 PM.

Craig D'Angelo
3333 Craig Drive
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 50 ft. x 70 ft. (3,500 sq. ft.) accessory structure on a vacant lot before a primary residence is built where the maximum allowed is 2,000 sq. ft. per town code, and with a height of 36 ft. where the maximum allowed is 20 feet. The area variance request would be 1,500 sq. ft. as per Code Section 247-34.E.(3) and the height variance request would be 16 ft. as per Code Section 247-34.F.(3). The size of the property is approximately 58 acres and is R-2 medium density residential zoning.

Mr. D'Angelo presented the Town of Pendleton Building Inspectors denial letter, the site survey of the property that illustrated the proposed location of the accessory structure, house & pond, and the plans for the proposed accessory structure.

Mr. D'Angelo indicated that he was planning to build a 5,000 sq. ft. house on the property at a 250 ft. front yard setback, but wanted to build the accessory structure before the house. He stated that the building would be built 500 ft. from the road and would be used as a recreational area & storage area for his classic cars, tractors, 4-wheeler & lawn equipment. The house, pond & accessory structure would be built on the 12 acre front portion of the property and the remainder would be leased for farming.

Mr. D'Angelo's neighbors, Mary Neffke, who lives on 4184 Beach Ridge Road; and Dave Monkelbaan, who lives on 4183 Beach Ridge Road; were present at the meeting for informational purposes.

All ZBA members stated that they had driven by or visited the property however several had been unsure of the exact location.

A motion was made by Mr. Welka to table the public hearing for further input from the planning and Town Boards on the proposed size of the building, and was seconded by Mr. Buechler. All voted in favor.

The formal public hearing was tabled at approximately 8:05 PM.

**Blair Maurer (Continuation of February 24th Public Hearing)
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 30 ft. x 40 ft. (1,200 sq. ft.) accessory structure with a 12 ft. x 40 ft. canopy overhang (480 sq. ft.) for a total area of 1,680 sq. ft. where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 1,080 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. Buechler indicated to the ZBA members that property size as used in section 247-34.E.(1) is based on the edge of the right of way and not the edge of the road. This confirms the property size of approximately 1.7 acres stated in the Planning Board minutes. Mr. Maurer also indicated that he had contracted for a preliminary survey of the property and confirmed the same size.

A motion was made by Mr. Meholick to table the public hearing to next month so all members could be present, and was seconded by Mr. Welka. All voted in favor.

The formal public hearing was tabled at approximately 8:10 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 February 24, 2015 meeting and was seconded by Lee Daigler. All voted in favor.

Specific Board Deliberation Actions:

**Chet Patel
6082 Transit 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 side lot variance would not have an undesirable change to the neighborhood. While the proposed height of the building exceeds that of the other structures in the neighborhood, the board members felt it was consistent with the commercial zoning.

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

It was agreed that the width of the building precluded alternative solutions to the side lot variance. It was also agreed that the proposed four-floor structure would not fit within the code's 35 ft. height restriction.

- c. Is the requested variance substantial?

It was agreed that the requested side lot variance was not substantial but that the height variance would be significant at over 50% of the maximum in the 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. Buechler to grant the height variance as detailed in the request and to grant the north side lot variance as amended to 29 ft. during the hearing for the project presented to the Board with the conditions that the building not exceed four stories and that the highest point of the building including facades be a maximum of 55 ft. from the ground. The motion was seconded by Mr. Welka. All voted in favor. The variance requests were granted.

Correspondence: *None*

Special Topics: *None*

Miscellaneous ZBA Topics:

1. Next ZBA meeting is scheduled for Tuesday, April 28, 2015, at 7:00PM.

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

Submitted by:

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 D'Angelo, Patel & McCullough
- Town of Pendleton Denial of Building Application for Mr. John McCullough
- Town of Pendleton Public Hearing Request for Mr. John McCullough
- Town of Pendleton Notice of Public Hearing for Mr. John McCullough
- Site Survey #1 of Property for Mr. John McCullough
- Site Survey #2 of Property for Mr. John McCullough
- Picture of Proposed Accessory Structure for Mr. John McCullough
- Sketch #1 of Proposed House for Mr. John McCullough
- Sketch #2 of Proposed House for Mr. John McCullough
- Town of Pendleton Denial of Building Application for Mr. Chet Patel
- Town of Pendleton Public Hearing Request for Mr. Chet Patel
- Town of Pendleton Notice of Public Hearing for Mr. Chet Patel
- Town of Pendleton Denial of Building Application for Mr. Craig D'Angelo
- Town of Pendleton Public Hearing Request for Mr. Craig D'Angelo
- Town of Pendleton Notice of Public Hearing for Mr. Craig D'Angelo