

TOWN OF PENDLETON
ZONING BOARD OF APPEALS
March 28, 2017 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. ZBA members Mr. Buechler, Mr. Daigler, Mr. Meholick & Mr. Welka; and The Town Prosecutor, Mr. Ned Perlman were present at the meeting. No changes were made to the ZBA agenda submitted by Wolfgang Buechler.

PUBLIC HEARINGS:

Sean O’Hara as Representative for Ryan Homes
4993 Devonshire Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 24 ft. x 24 ft. (576 sq. ft.) accessory structure on a corner lot at a setback of 42 ft. where the minimum allowed is 150 feet per Town Code. The variance request would be 108 ft. as per Town Code §247-26.A. The property is 0.86 acres and is R-2 medium density residential zoning.

Mr. O’Hara presented the Town of Pendleton Building Inspector’s denial and a site survey with the proposed accessory structure location. Mr. O’Hara indicated that the proposed buyer in addition to the garage on his proposed home needed additional storage space for three vehicles, two motor cycles, and miscellaneous lawn furniture. The accessory structure would be built with the same siding as the house.

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

The public hearing was closed at approximately 7:20 PM.

David Deberny
5731 Fisk Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 10 ft. x 14 ft. (140 sq. ft.) accessory structure on a vacant lot adjacent to the owners residential lot where the Town Code §247-34.A.(3) requires accessory structures to be located on the same lot as the principal residence. The property is 1.06 acres and is R-2 medium density residential zoning.

Mr. Deberny presented the Town of Pendleton Building Inspector's denial, and a site survey with the accessory structure location as it was already built. Mr. Deberny also presented the Town of Pendleton Building Permit Application & Building Permit for installation of the accessory structure on his property.

Mr. John McCullough, his neighbor on 5735 Fisk Road, was present at the meeting and was okay with the shed in its current location.

Mr. Buechler indicated to Mr. Deberny that his alternatives could be to move the accessory structure on his property or combine the two properties. Mr. Deberny requested that we delay our decision for 62 days until he could make a decision on how he wanted to proceed.

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

The public hearing was closed at approximately 7:40 PM.

Jim Andruschat
7200 Campbell Blvd
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 40 ft. x 60 ft. (2,400 sq. ft.) accessory structure on his property where the maximum allowed is 2,000 sq. ft. per Town Code. The variance request would be 400 sq. ft. as per Town Code §247-34.E(3). The property is over 7 acres and is R-2 medium density residential zoning.

Mr. Andruschat's father James was at the public hearing representing his son, and presented the Town of Pendleton Building Inspector's denial, a site survey with the accessory structure location on the property, and a photograph of the proposed building. Mr. Andruschat indicated that the accessory structure would be located 300 ft. back from the right of way and would be used for storage of vehicles, tractor, lawn furniture, and other miscellaneous items.

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

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

REGULAR ZBA MEETING:

Review Minutes from Prior Meeting:

A motion was made by Lee Daigler to accept the minutes of the February 28, 2017 meeting and was seconded by Dennis Welka. All voted in favor.

Specific Board Deliberation Actions:

**Sean O’Hara as Representative for Ryan Homes
4993 Devonshire 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 create an undesirable change to the neighborhood and nearby properties as the proposed accessory structure would be located too close to the right of way and would have a detrimental visual impact to the neighborhood.

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

It was agreed that there were no alternative solutions that would not require a variance.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was 70% greater than the town code allowed.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members felt 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 front yard variance as detailed in the request, and was seconded by Mr. Buechler. All voted in favor to deny the variance request.

David Deberny
5731 Fisk Road
Pendleton, New York

A motion was made by Mr. Buechler to table the deliberation for one month, and was seconded by Mr. Welka. All voted in favor.

Jim Andruschat
7200 Campbell Blvd
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 as the proposed accessory structure would be located far enough back on his property to not have a detrimental visual impact to the neighborhood.

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

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

- c. Is the requested variance substantial?

It was agreed that the requested variance request was not substantial as it was only 20% greater than the town code allowed.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members felt 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. Daigler to grant the area variance as detailed in the request with the condition of a minimal setback of 300 feet, and with the condition that the project be completed in one year. The motion was seconded by Mr. Meholick. All voted in favor.

**Howard Urban (Continued from February 2017)
6856 Transit Road
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a high temperature air dome at a maximum height of 60 ft. where the maximum allowed is 35 feet per Town Code. The variance request would be 25 ft. as per Town Code §247-13.J. The property is 155.4 acres and is CO-2 medium commercial zoning.

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 create an undesirable change to the neighborhood and nearby properties as the proposed air dome would have a detrimental visual impact to the neighborhood.

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

Mr. Kech, owner of the Dugout, had indicated previously that there were no alternate solutions on the property.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was 70% greater than the town code allowed.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members were uncertain if the variance would 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 was seconded by Mr. Daigler. Mr. Buechler & Mr. Daigler voted in favor of the variance request, and Mr. Meholic & Mr. Welka voted against the request. The application for the height variance was denied.

Ethan & Marian Blanton (Continued from February 2017)
5761 Dunnigan Road
Pendleton, New York

APPLICATION FOR VARIANCE of the provisions of the Zoning ordinance of the Town of Pendleton to construct a 24 ft. x 14 ft. (336 sq. ft.) accessory structure at a front yard setback of 100 ft. where the minimum allowed is 150 feet per Town Code. The variance request would be 50 ft. as per Town Code §247-34.F(2)(a). The property is 1.43 acres and is R-2 medium density residential zoning.

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 create an undesirable change to the neighborhood and nearby properties as the proposed accessory structure would have a detrimental visual impact to the neighborhood.

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

It was agreed that the alternative solution would be to move the building further back on his property.

- c. Is the requested variance substantial?

It was agreed that the requested variance request was substantial as it was 30% greater than the town code allowed.

- d. Will the variance have an adverse effect on the physical or environmental conditions in the neighborhood or district?

The board members felt 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. Daigler to grant a 120 ft. front yard setback variance for the location of the accessory, turned in either direction, and with the condition that the project be completed in one year. The motion was seconded by Mr. Meholick. Mr. Daigler, Mr. Buechler & Mr. Daigler voted in favor of the variance request, and Mr. Welka voted against the request. The 120 ft. front yard variance was approved.

New Inquiries to ZBA:

Mr. Sean Hopkins was at the meeting representing Paul Bliss, the developer for the Meadows North proposed sub-division. He presented the sketch plan of the development and briefly discussed the depth & area variances that would be needed for several of the lots.

Correspondence:

1. Orleans County Department of Planning & Development Land Use Training announcement at the Albion Public Library on Wednesday, June 28th.

Special Topics: *None*

Miscellaneous ZBA Topics:

1. The next scheduled meeting will be on Tuesday, April 25, 2017, at 7:00PM.

A motion was made by Lee Daigler to adjourn the meeting at 9:00 PM, and seconded by Wolf Buechler.

Submitted for:

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 Mr. Andruschat & Mr. Deberny
 - Town of Pendleton Denial of Building Application for Mr. Sean O'Hara
 - Town of Pendleton Public Hearing Request for Mr. Sean O'Hara
 - Town of Pendleton Notice of Public Hearing for Mr. Sean O'Hara
 - Site Survey of Property for Mr. Sean O'Hara
 - Town of Pendleton Denial of Building Application for Mr. David Deberny
 - Town of Pendleton Public Hearing Request for Mr. David Deberny
 - Town of Pendleton Notice of Public Hearing for Mr. David Deberny
 - Site Survey of Property for Mr. David Deberny
 - Building Permit Application for Mr. David Deberny
 - Building Permit for Mr. David Deberny
 - Town of Pendleton Denial of Building Application for Mr. Jim Andruschat
 - Town of Pendleton Public Hearing Request for Mr. Jim Andruschat

Town of Pendleton Notice of Public Hearing for Mr. Jim Andruschat

Site Survey of Property for Mr. Jim Andruschat

Picture of Proposed Accessory Structure for Mr. Jim Andruschat

Letter from Mr. Urban that Mr. Kech can Represent the Air Dome Project

Photograph of Proposed Air Dome for Mr. Howard Urban

Aerial Sketch of Planned Sub-Division for Mr. Sean Hopkins

Land Use Training Announcement in June