

**TOWN OF PENDLETON**  
**ZONING BOARD OF APPEALS**  
**May 26, 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.) accessory structure to replace an existing 18 ft. x 20 ft. (360 sq. ft.) detached garage and shed where the maximum allowed is 600 sq. ft. per town code. The area variance request would be 600 sq. ft. as per Code Section 247-34.E.(1). The size of the property is approximately 1.1 acres and is R-2 medium density residential zoning.

Mr. Woodward presented the Town of Pendleton Building Inspector's denial, the site survey of the property that illustrated the proposed location of the accessory structure 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 a 200 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.

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

The formal public hearing was closed at approximately 7:15 PM.

**Jonathan Campbell  
6573 Sheetram Road  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new 40 ft. x 72 ft. (2,880 sq. ft.) accessory structure where the maximum allowed is 2,000 sq. ft. per town code. The area variance request would be 880 sq. ft. as per Code Section 247-34.E.(3). The size of the property is approximately 25 acres and is R-2 medium density residential zoning.

Mr. Campbell presented the Town of Pendleton Building Inspector's denial, site survey of the property that illustrated the proposed location of the accessory structure, and the contents layout of the building. He indicated that the accessory structure would be at a 470 ft. setback from the right of way and would be used for cold storage of his boat, Chevrolet Corvette and Chevelle, BMW, GMC Sierra, utility trailer, ATV, snowmobiles, trailer, and plow; with a work area having cabinets and shelving for storage.

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

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

**Harry Carlson  
6556 Sheetram 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 15 ft. (450 sq. ft.) lean-to roof at the rear of an existing 1,200 sq. ft. accessory structure. There is also an existing 10 ft. x 14 ft. accessory structure on the property which will remain, bringing the total aggregate accessory structure area to 1,790 sq. ft. where the maximum allowed is 1,200 sq. ft. per town code. The area variance request would be 880 sq. ft. as per Code Section 247-34.E.(3). The size of the property is approximately 2.58 acres and is R-2 medium density residential zoning.

Mr. Carlson presented the Town of Pendleton Building Inspector's denial, the site survey of the property that illustrated the proposed location of the accessory structure with relationship to the house, sketch of the lean-to, and a photograph of the existing accessory structure. He indicated that the building would be used for storage of his equipment as the existing structure was full. It was noted at the meeting that there was an existing accessory structure not identified in the application for the public hearing, and the variance request was amended to include this building.

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

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

**Ned Libroek (Continuation of March 24th Public Hearing)  
Tonawanda Creek Road SBL No. 165.00-2-17.1  
Pendleton, New York**

APPLICATION FOR VARIANCE of the provisions of the Zoning Ordinance of the Town of Pendleton to construct a new agricultural building with a side yard setback of 20 ft. where the minimum allowed is 100 ft. as per town code, and a 200 ft. front yard setback where a minimum of 250 ft. is required as per town code. The side yard variance request would be 80 ft. and the front yard variance request would be 50 ft. as per the same Code Section 247-40.A(1). The size of the property is approximately 27 acres and is R-2 medium density residential zoning.

Mr. Buechler indicated to the ZBA members that if the agricultural building was located at a front yard setback of 250 ft. as per town code that the side yard setback would meet town code and no variances would be required. Mr. Buechler was going to contact Mr. Libroek and advise him of this fact, and if he did not want to locate the building further back he was going to request that he stake where he wanted the building to be located.

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

**REGULAR ZBA MEETING:**

***Review Minutes from Prior Meeting:***

A motion was made by Jim Schlemmer to accept the minutes of the April 28, 2015 meeting and was seconded by Dennis Welka. 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 area variance would not have an undesirable change to the neighborhood as it was not out of character with the area and was setback in the property.

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

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

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial as the area request was twice the town code and was larger than the primary residence (1,022 sq. ft.).

- 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. Daigler to grant the area variance as detailed in the request conditional that the existing detached garage and smaller accessory structure be removed from the property, and to impose a one year time limit on completion of the proposed project. The motion was seconded by Mr. Schlemmer. Mr. Buecher, Mr. Daigler and Mr. Schlemmer voted in favor of the motion; and Mr. Meholick and Mr. Welka voted against. The area variance request was granted.

**Jonathan Campbell**  
**6573 Sheetram 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 it was far enough away from the other homes in 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 accessory structure.

- c. Is the requested variance substantial?

It was agreed that the area variance request was substantial as it was 40% 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. Meholick 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. Daigler. All voted in favor.

**Harry Carlson**  
**6556 Sheetram 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 the lean-to would be built behind the existing accessory structure.

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

It was agreed that the alternative solution would be to not build the lean-to structure.

- c. Is the requested variance substantial?

It was agreed that the variance request was substantial as the total aggregate area was 50% 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?

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. Meholick to approve the variance as detailed in the request, conditional that the addition must be attached to the rear of the existing accessory structure, 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.

***Correspondence:***     *None*

***Special Topics:***     *None*

***Miscellaneous ZBA Topics:***

1.     Next ZBA meeting is scheduled for Monday, June 22, 2015, at 7:00PM.

A motion was made by Wolfgang Buechler to adjourn the meeting at 8:15 PM, and seconded by Jim Schlemmer.

Submitted by:

James G. Meholick  
Secretary

- Attachments:
- Town of Pendleton Zoning Board of Appeals Sign-In Sheet
  - Public Hearing Mailing List for Carlson & Woodward
  - Public Hearing Mailing List for Campbell
  - 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 Mr. Jonathon Campbell
  - Town of Pendleton Public Hearing Request for Mr. Jonathon Campbell
  - Town of Pendleton Notice of Public Hearing for Mr. Jonathon Campbell
  - Layout Drawing of Accessory Structure for Mr. Jonathon Campbell
  - Town of Pendleton Denial of Building Application for Mr. Harry Carlson
  - Town of Pendleton Public Hearing Request for Mr. Harry Carlson
  - Town of Pendleton Notice of Public Hearing for Mr. Harry Carlson
  - Site Survey of Property for Mr. Harry Carlson
  - Picture #1 of Proposed Overhang for Mr. Harry Carlson
  - Picture #2 of Proposed Accessory Structure for Mr. Harry Carlson